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LEGISLATIVE ACTION

Senate

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House

Senator Garcia moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(10) Case management. Case management includes:



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

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

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

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

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

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

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

32 1. To ensure the safety of children.

33 2. To prevent and remediate the consequences of mental
34 illnesses and substance abuse disorders on families involved in
35 protective supervision or foster care and reduce the occurrences
36 of mental illnesses and substance abuse disorders, including
37 alcohol abuse or related disorders, for families who are at risk
38 of being involved in protective supervision or foster care.

39 3. To expedite permanency for children and reunify healthy,
40 intact families, when appropriate.



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41 4. To support families in recovery.

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

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

69 (e) It is therefore the purpose of the Legislature to



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

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

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

83 39.507 Adjudicatory hearings; orders of adjudication.—

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



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

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

111 39.521 Disposition hearings; powers of disposition.—

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

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

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



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

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

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



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

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

174 381.0056 School health services program.—

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

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

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



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

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

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

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

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

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

- 213 1. Health appraisal;
214 2. Records review;



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



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244 18. Notification to the local nonpublic schools of the
245 school health services program and the opportunity for
246 representatives of the local nonpublic schools to participate in
247 the development of the cooperative health services plan.

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

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

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



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

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

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

296 (1) "Addictions receiving facility" means a secure, acute
297 care facility that, at a minimum, provides detoxification and
298 stabilization services; is operated 24 hours per day, 7 days a
299 week; and is designated by the department to serve individuals
300 found to have substance abuse impairment as defined in
301 subsection (44) who qualify for services under this section.



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

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

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

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

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

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

330 (7)~~(5)~~ "Community facility" means a any community service



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331 provider contracting with the department to furnish substance
332 abuse or mental health services under part IV of this chapter.

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

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

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

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

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

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

352 (14)~~(10)~~ "Facility" means any hospital, community facility,
353 public or private facility, or receiving or treatment facility
354 providing for the evaluation, diagnosis, care, treatment,
355 training, or hospitalization of individuals ~~persons~~ who appear
356 to have ~~a mental illness~~ or who have been diagnosed as having a
357 mental illness or substance abuse impairment. The term
358 "Facility" does not include a ~~any~~ program or entity licensed
359 under ~~pursuant to~~ chapter 400 or chapter 429.



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

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

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

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

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

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

386 (21) "Involuntary examination" means an examination
387 performed under s. 394.463 to determine whether an individual
388 qualifies for involuntary outpatient placement under s. 394.4655



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389 or involuntary inpatient placement under s. 394.467.

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

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

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

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

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



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

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

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

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

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



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

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

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

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

474 ~~(37)-(25)~~ "Public facility" means any facility that has
475 contracted with the department to provide mental health or



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476 substance abuse services to all individuals ~~persons~~, regardless
477 of their ability to pay, and is receiving state funds for such
478 purpose.

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

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

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

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

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

504 (c) Restraint does not include physical devices, such as



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505 orthopedically prescribed appliances, surgical dressings and
506 bandages, supportive body bands, or other physical holding ~~when~~
507 necessary for routine physical examinations and tests; ~~or~~ for
508 purposes of orthopedic, surgical, or other similar medical
509 treatment; ~~when used~~ to provide support for the achievement of
510 functional body position or proper balance; or ~~when used~~ to
511 protect an individual ~~a person~~ from falling out of bed.

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

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

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

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

533 (44) "Substance abuse impairment" means a condition



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534 involving the use of alcoholic beverages or any psychoactive or
535 mood-altering substance in such a manner as to induce mental,
536 emotional, or physical problems and cause socially dysfunctional
537 behavior.

538 (45) "Substance abuse qualified professional" has the same
539 meaning as the term "qualified professional" as defined in s.
540 397.311.

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

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



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

570 ~~(34) "Involuntary examination" means an examination~~
571 ~~performed under s. 394.463 to determine if an individual~~
572 ~~qualifies for involuntary inpatient treatment under s.~~
573 ~~394.467(1) or involuntary outpatient treatment under s.~~
574 ~~394.4655(1).~~

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

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

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

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

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

587 394.457 Operation and administration.-

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



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

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

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

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

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



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



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650 are provided and meet the standards of the department.

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

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

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

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



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

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

689 ~~(6) PERSONNEL.—~~

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

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

699 ~~(6)(7) PAYMENT FOR CARE OF PATIENTS.—~~Fees and fee
700 collections for patients in state-owned, state-operated, or
701 state-supported treatment facilities shall be according to s.
702 402.33.

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

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

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



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

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

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

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

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

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

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



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

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

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

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

763 Section 10. Effective July 1, 2016, section 394.459,
764 Florida Statutes, is amended to read:

765 394.459 Rights of individuals receiving treatment and



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766 services patients.-

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

786 (2) PROTECTIVE CUSTODY WITHOUT CONSENT FOR SUBSTANCE ABUSE
787 IMPAIRMENT.-An individual who has a substance abuse impairment
788 but who has not been charged with a criminal offense may be
789 placed in protective custody without his or her consent, subject
790 to the limitations specified in this subsection. If it has been
791 determined that a hospital, an addictions receiving facility, or
792 a licensed detoxification facility is the most appropriate
793 placement for the individual, law enforcement may implement
794 protective custody measures as specified in this subsection.



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

800 1. Has inflicted, or threatened or attempted to inflict, or
801 unless admitted is likely to inflict, physical harm on himself
802 or herself or another; or

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

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

817 1. Take the individual to a hospital, an addictions
818 receiving facility, or a licensed detoxification facility
819 against the individual's will but without using unreasonable
820 force; or

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



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824
825 Detention under this paragraph is not to be considered an arrest
826 for any purpose, and an entry or other record may not be made to
827 indicate that the individual has been detained or charged with
828 any crime. The officer in charge of the detention facility must
829 notify the nearest appropriate licensed service provider within
830 8 hours after detention that the individual has been detained.
831 The detention facility must arrange, as necessary, for
832 transportation of the individual to an appropriate licensed
833 service provider with an available bed. Individuals detained
834 under this paragraph must be assessed by an attending physician
835 without unnecessary delay and within a 72-hour period to
836 determine the need for further services.

837 (c) The nearest relative of a minor in protective custody
838 must be notified by the law enforcement officer, as must the
839 nearest relative of an adult, unless the adult requests that
840 there be no notification.

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

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

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

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

850 (e) An individual may be detained in protective custody
851 beyond the 72-hour period if a petitioner has initiated
852 proceedings for involuntary assessment or treatment. The timely



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853 filing of the petition authorizes the service provider to retain
854 physical custody of the individual pending further order of the
855 court.

856 (3)(2) RIGHT TO TREATMENT.—An individual held for
857 examination or admitted for mental illness or substance abuse
858 treatment:

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

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

875 (c) Shall ~~Each person who remains at a receiving or~~
876 ~~treatment facility for more than 12 hours shall~~ be given a
877 physical examination by a health practitioner authorized by law
878 to give such examinations, and a mental health or substance
879 abuse evaluation, as appropriate, by a psychiatrist,
880 psychologist, psychiatric nurse, or qualified substance abuse
881 professional, within 24 hours after arrival at such facility if



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882 the individual has not been released or discharged pursuant to
883 s. 394.463(2) (h) or s. 394.469. The physical examination and
884 mental health evaluation must be documented in the clinical
885 record. The physical and mental health examinations shall
886 include efforts to identify indicators of substance abuse
887 impairment, substance abuse intoxication, and substance abuse
888 withdrawal.

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

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

899 ~~(4)(3)~~ RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

900 ~~(a)1.~~ Each individual patient entering treatment shall be
901 asked to give express and informed consent for admission or
902 treatment.

903 (a) If the individual patient has been adjudicated
904 incapacitated or found to be incompetent to consent to
905 treatment, express and informed consent must ~~to treatment shall~~
906 be sought from his or her ~~instead from the patient's~~ guardian,
907 ~~or~~ guardian advocate, or health care surrogate or proxy. If the
908 individual patient is a minor, express and informed consent for
909 admission or treatment must be obtained ~~shall also be requested~~
910 ~~from the patient's guardian. Express and informed consent for~~



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911 ~~admission or treatment of a patient under 18 years of age shall~~
912 ~~be required from the minor's patient's guardian, unless the~~
913 ~~minor is seeking outpatient crisis intervention services under~~
914 ~~s. 394.4784. Express and informed consent for admission or~~
915 ~~treatment given by a patient who is under 18 years of age shall~~
916 ~~not be a condition of admission when the patient's guardian~~
917 ~~gives express and informed consent for the patient's admission~~
918 ~~pursuant to s. 394.463 or s. 394.467.~~

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



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

950 (c) When the department is the legal guardian of a patient,
951 or is the custodian of a patient whose physician is unwilling to
952 perform a medical procedure, including an electroconvulsive
953 treatment, based solely on the patient's consent and whose
954 guardian or guardian advocate is unknown or unlocatable, the
955 court shall hold a hearing to determine the medical necessity of
956 the medical procedure. The patient shall be physically present,
957 unless the patient's medical condition precludes such presence,
958 represented by counsel, and provided the right and opportunity
959 to be confronted with, and to cross-examine, all witnesses
960 alleging the medical necessity of such procedure. In such
961 proceedings, the burden of proof by clear and convincing
962 evidence shall be on the party alleging the medical necessity of
963 the procedure.

964 (d) The administrator of a receiving or treatment facility
965 may, upon the recommendation of the patient's attending
966 physician, authorize emergency medical treatment, including a
967 surgical procedure, if such treatment is deemed lifesaving, or
968 if the situation threatens serious bodily harm to the patient,



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969 and permission of the patient or the patient's guardian or
970 guardian advocate cannot be obtained.

971 (5)~~(4)~~ QUALITY OF TREATMENT.—

972 (a) Each individual ~~patient shall receive services,~~
973 ~~including, for a patient placed under s. 394.4655 shall receive,~~
974 ~~those services that are included in the court order which are~~
975 ~~suited to his or her needs, and which shall be administered~~
976 ~~skillfully, safely, and humanely with full respect for the~~
977 ~~individual's patient's~~ dignity and personal integrity. Each
978 individual ~~patient~~ shall receive such medical, vocational,
979 social, educational, substance abuse, and rehabilitative
980 services as his or her condition requires in order to live
981 successfully in the community. In order to achieve this goal,
982 the department shall ~~is directed to~~ coordinate its mental health
983 and substance abuse programs with all other programs of the
984 department and other state agencies.

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

990 1. Criteria, procedures, and required staff training for
991 the ~~any~~ use of close or elevated levels of supervision, ~~of~~
992 restraint, seclusion, or isolation, ~~or of~~ emergency treatment
993 orders, and ~~for the use of~~ bodily control and physical
994 management techniques.

995 2. Procedures for documenting, monitoring, and requiring
996 clinical review of all uses of the procedures described in
997 subparagraph 1. and for documenting and requiring review of any



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998 incidents resulting in injury to individuals receiving services
999 patients.

1000 3. A system for investigating, tracking, managing, and
1001 responding to complaints by individuals ~~persons~~ receiving
1002 services or persons ~~individuals~~ acting on their behalf.

1003 (c) Facilities shall have written procedures for reporting
1004 events that place individuals receiving services at risk of
1005 harm. Such events must be reported to the managing entity in the
1006 facility's region and the department as soon as reasonably
1007 possible after discovery and include, but are not limited to:

1008 1. The death, regardless of cause or manner, of an
1009 individual examined or treated at a facility that occurs while
1010 the individual is at the facility or that occurs within 72 hours
1011 after release, if the death is known to the facility
1012 administrator.

1013 2. An injury sustained, or allegedly sustained, at a
1014 facility, by an individual examined or treated at the facility
1015 and caused by an accident, self-inflicted injury, assault, act
1016 of abuse, neglect, or suicide attempt, if the injury requires
1017 medical treatment by a licensed health care practitioner in an
1018 acute care medical facility.

1019 3. The unauthorized departure or absence of an individual
1020 from a facility in which he or she has been held for involuntary
1021 examination or involuntary placement.

1022 4. A disaster or crisis situation such as a tornado,
1023 hurricane, kidnapping, riot, or hostage situation that
1024 jeopardizes the health, safety, or welfare of individuals
1025 examined or treated in a facility.

1026 5. An allegation of sexual battery upon an individual



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1027 examined or treated in a facility.

1028 ~~(d)(e)~~ A facility may not use seclusion or restraint for
1029 punishment, to compensate for inadequate staffing, or for the
1030 convenience of staff. Facilities shall ensure that all staff are
1031 made aware of these restrictions ~~on the use of seclusion and~~
1032 ~~restraint~~ and ~~shall make and~~ maintain records that ~~which~~
1033 demonstrate that this information has been conveyed to each
1034 ~~individual~~ staff member ~~members~~.

1035 ~~(6)(5)~~ COMMUNICATION, ABUSE REPORTING, AND VISITS.—

1036 (a) Each individual ~~person receiving services~~ in a facility
1037 providing mental health services under this part has the right
1038 to communicate freely and privately with persons outside the
1039 facility unless it is determined that such communication is
1040 likely to be harmful to the individual ~~person~~ or others. Each
1041 facility shall make available ~~as soon as reasonably possible to~~
1042 ~~persons receiving services~~ a telephone that allows for free
1043 local calls and access to a long-distance service to the
1044 individual as soon as reasonably possible. A facility is not
1045 required to pay the costs of the individual's ~~a patient's~~ long-
1046 distance calls. The telephone must ~~shall~~ be readily accessible
1047 ~~to the patient~~ and ~~shall be~~ placed so that the individual
1048 ~~patient~~ may use it to communicate privately and confidentially.
1049 The facility may establish reasonable rules for the use of the
1050 ~~this~~ telephone which, ~~provided that the rules~~ do not interfere
1051 with an individual's ~~a patient's~~ access to a telephone to report
1052 abuse pursuant to paragraph (e).

1053 (b) Each individual ~~patient~~ admitted to a facility under
1054 ~~the provisions of~~ this part shall be allowed to receive, send,
1055 and mail sealed, unopened correspondence; and the individual's



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1056 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~
1057 be opened, delayed, held, or censored by the facility unless
1058 there is reason to believe that it contains items or substances
1059 that ~~which~~ may be harmful to the individual ~~patient~~ or others,
1060 in which case the administrator may direct reasonable
1061 examination of such mail and may regulate the disposition of
1062 such items or substances.

1063 (c) Each facility shall allow ~~must permit~~ immediate access
1064 to an individual ~~any patient~~, subject to the ~~patient's~~ right to
1065 deny or withdraw consent at any time, by the individual, or by
1066 the individual's ~~patient's~~ family members, guardian, guardian
1067 advocate, health care surrogate or proxy, representative,
1068 ~~Florida statewide or local advocacy council~~, or attorneys
1069 ~~attorney~~, unless such access would be detrimental to the
1070 individual ~~patient~~. If the ~~a~~ ~~patient's~~ right to communicate or
1071 to receive visitors is restricted by the facility, written
1072 notice of such restriction and the reasons for the restriction
1073 shall be served on the individual and ~~patient~~, the individual's
1074 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian
1075 advocate, health care surrogate or proxy, or representative; and
1076 such restriction, and the reasons for the restriction, must
1077 ~~shall~~ be recorded in on the ~~patient's~~ clinical record ~~with the~~
1078 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~
1079 ~~communicate or to receive visitors shall~~ be reviewed at least
1080 every 7 days. The right to communicate or receive visitors may
1081 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~
1082 ~~in this~~ paragraph may not ~~shall~~ be construed to limit the
1083 provisions of paragraph (d).

1084 (d) Each facility shall establish reasonable rules, which



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1085 must be the least restrictive possible, governing visitors,
1086 visiting hours, and the use of telephones by individuals
1087 ~~patients in the least restrictive possible manner. An individual~~
1088 has ~~Patients shall have~~ the right to contact and to receive
1089 communication from his or her attorney ~~their attorneys~~ at any
1090 reasonable time.

1091 (e) Each individual patient receiving mental health or
1092 substance abuse treatment in any facility shall have ready
1093 access to a telephone in order to report ~~an~~ alleged abuse. The
1094 facility staff shall orally and in writing inform each
1095 individual patient of the procedure for reporting abuse and
1096 shall make every reasonable effort to present the information in
1097 a language the individual patient understands. A written copy of
1098 that procedure, including the telephone number of the central
1099 abuse hotline and reporting forms, must ~~shall~~ be posted in plain
1100 view.

1101 (f) The department shall adopt rules providing a procedure
1102 for reporting abuse. ~~Facility staff shall be required,~~ As a
1103 condition of employment, facility staff shall ~~to~~ become familiar
1104 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

1105 (7)-(6) CARE AND CUSTODY OF PERSONAL EFFECTS OF PATIENTS.-A
1106 facility shall respect the rights of an individual with regard A
1107 ~~patient's right~~ to the possession of his or her clothing and
1108 personal effects ~~shall be respected~~. The facility may take
1109 temporary custody of such effects if ~~when~~ required for medical
1110 and safety reasons. The A patient's clothing and personal
1111 effects shall be inventoried upon their removal into temporary
1112 custody. Copies of this inventory shall be given to the
1113 individual patient and to his or her ~~the patient's~~ guardian,



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1114 guardian advocate, health care surrogate or proxy, or
1115 representative and shall be recorded in the ~~patient's~~ clinical
1116 record. This inventory may be amended upon the request of the
1117 individual patient or his or her ~~the patient's~~ guardian,
1118 guardian advocate, health care surrogate or proxy, or
1119 representative. The inventory and any amendments ~~to it~~ must be
1120 witnessed by two members of the facility staff and by the
1121 individual patient, if he or she is able. All of ~~the a patient's~~
1122 clothing and personal effects held by the facility shall be
1123 returned to the individual patient immediately upon his or her
1124 ~~the discharge or transfer of the patient~~ from the facility,
1125 unless such return would be detrimental to the individual
1126 ~~patient~~. If personal effects are not returned ~~to the patient~~,
1127 the reason must be documented in the clinical record along with
1128 the disposition of the clothing and personal effects, which may
1129 be given instead to the individual's patient's guardian,
1130 guardian advocate, health care surrogate or proxy, or
1131 representative. As soon as practicable after an emergency
1132 transfer ~~of a patient~~, the individual's ~~patient's~~ clothing and
1133 personal effects shall be transferred to the individual's
1134 ~~patient's~~ new location, together with a copy of the inventory
1135 and any amendments, unless an alternate plan is approved by the
1136 individual patient, if he or she is able, and by his or her ~~the~~
1137 ~~patient's~~ guardian, guardian advocate, health care surrogate or
1138 proxy, or representative.

1139 (8) ~~(7)~~ VOTING IN PUBLIC ELECTIONS.—A patient who is
1140 eligible to vote according to the laws of the state has the
1141 right to vote in the primary and general elections. The
1142 department shall establish rules to enable patients to obtain



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1143 voter registration forms, applications for absentee ballots, and
1144 absentee ballots.

1145 (9)~~(8)~~ HABEAS CORPUS.—

1146 (a) At any time, and without notice, an individual ~~a person~~
1147 held or admitted for mental health or substance abuse
1148 examination or placement in a receiving or treatment facility,
1149 or a relative, friend, guardian, guardian advocate, health care
1150 surrogate or proxy, representative, or attorney, or the
1151 department, on behalf of such individual ~~person~~, may petition
1152 for a writ of habeas corpus to question the cause and legality
1153 of such detention and request that the court order a return to
1154 the writ in accordance with chapter 79. Each individual ~~patient~~
1155 held in a facility shall receive a written notice of the right
1156 to petition for a writ of habeas corpus.

1157 (b) At any time, and without notice, an individual held or
1158 admitted for mental health or substance abuse examination or
1159 placement ~~a person who is a patient~~ in a ~~receiving or treatment~~
1160 facility, or a relative, friend, guardian, guardian advocate,
1161 health care surrogate or proxy, representative, or attorney, or
1162 the department, on behalf of such individual ~~person~~, may file a
1163 petition in the circuit court in the county where the individual
1164 ~~patient~~ is being held alleging that he or she ~~the patient~~ is
1165 being unjustly denied a right or privilege granted under this
1166 part herein or that a procedure authorized under this part
1167 ~~herein~~ is being abused. Upon the filing of such a petition, the
1168 court shall ~~have the authority to~~ conduct a judicial inquiry and
1169 ~~to issue~~ an ~~any~~ order ~~needed~~ to correct an abuse of ~~the~~
1170 ~~provisions of~~ this part.

1171 (c) The administrator of any ~~receiving or treatment~~



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1172 facility receiving a petition under this subsection shall file
1173 the petition with the clerk of the court on the next court
1174 working day.

1175 (d) A No fee may not shall be charged for ~~the~~ filing of a
1176 petition under this subsection.

1177 (10)-(9) VIOLATIONS.—The department shall report to the
1178 Agency for Health Care Administration any violation of the
1179 rights or privileges of patients, or of any procedures provided
1180 under this part, by any facility or professional licensed or
1181 regulated by the agency. The agency is authorized to impose any
1182 sanction authorized for violation of this part, based solely on
1183 the investigation and findings of the department.

1184 (11)-(10) LIABILITY FOR VIOLATIONS.—Any person who violates
1185 or abuses any rights or privileges of patients provided by this
1186 part is liable for damages as determined by law. Any person who
1187 acts in good faith in compliance with the provisions of this
1188 part is immune from civil or criminal liability for his or her
1189 actions in connection with the admission, diagnosis, treatment,
1190 or discharge of a patient to or from a facility. However, this
1191 section does not relieve any person from liability if such
1192 person commits negligence.

1193 (12)-(11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE
1194 PLANNING.—The patient shall have the opportunity to participate
1195 in treatment and discharge planning and shall be notified in
1196 writing of his or her right, upon discharge from the facility,
1197 to seek treatment from the professional or agency of the
1198 patient's choice.

1199 (13) ADVANCE DIRECTIVES.—All service providers under this
1200 part shall provide information concerning advance directives to



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1201 individuals and assist those who are competent and willing to
1202 complete an advance directive. The directive may include
1203 instructions regarding mental health or substance abuse care.
1204 Service providers under this part shall honor the advance
1205 directive of individuals they serve, or shall request the
1206 transfer of the individual as required under s. 765.1105.

1207 (14)~~(12)~~ POSTING OF NOTICE OF RIGHTS OF PATIENTS.—Each
1208 facility shall post a notice listing and describing, in the
1209 language and terminology that the persons to whom the notice is
1210 addressed can understand, the rights provided in this section.
1211 This notice shall include a statement that provisions of the
1212 federal Americans with Disabilities Act apply and the name and
1213 telephone number of a person to contact for further information.
1214 This notice shall be posted in a place readily accessible to
1215 patients and in a format easily seen by patients. This notice
1216 shall include the telephone numbers of the Florida local
1217 advocacy council and Advocacy Center for Persons with
1218 Disabilities, Inc.

1219 Section 11. Section 394.4597, Florida Statutes, is amended
1220 to read:

1221 394.4597 Persons to be notified; appointment of a patient's
1222 representative.—

1223 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual
1224 a patient is voluntarily admitted to a receiving or treatment
1225 facility, the individual shall be asked to identify a person to
1226 be notified in case of an emergency, and the identity and
1227 contact information of that a person to be notified in case of
1228 an emergency shall be entered in the individual's patient's
1229 clinical record.



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1230 (2) INVOLUNTARY ADMISSION PATIENTS.—

1231 (a) At the time an individual ~~a patient~~ is admitted to a
1232 facility for involuntary examination or placement, or when a
1233 petition for involuntary placement is filed, the names,
1234 addresses, and telephone numbers of the individual's ~~patient's~~
1235 guardian or guardian advocate, health care surrogate, or proxy,
1236 or representative if he or she ~~the patient~~ has no guardian, and
1237 the individual's ~~patient's~~ attorney shall be entered in the
1238 ~~patient's clinical~~ record.

1239 (b) If the individual ~~patient~~ has no guardian, guardian
1240 advocate, health care surrogate, or proxy, ~~he or she the patient~~
1241 shall be asked to designate a representative. If the individual
1242 ~~patient~~ is unable or unwilling to designate a representative,
1243 the facility shall select a representative.

1244 (c) The individual ~~patient~~ shall be consulted with regard
1245 to the selection of a representative by the receiving or
1246 treatment facility and may ~~shall have authority to~~ request that
1247 the ~~any such~~ representative be replaced.

1248 (d) ~~If~~ When the receiving or treatment facility selects a
1249 representative, first preference shall be given to a health care
1250 surrogate, if one has been previously selected ~~by the patient~~.
1251 If the individual ~~patient~~ has not previously selected a health
1252 care surrogate, the selection, except for good cause documented
1253 in the individual's ~~patient's~~ clinical record, shall be made
1254 from the following list in the order of listing:

- 1255 1. The individual's ~~patient's~~ spouse.
- 1256 2. An adult child of the individual ~~patient~~.
- 1257 3. A parent of the individual ~~patient~~.
- 1258 4. The adult next of kin of the individual ~~patient~~.



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1259 5. An adult friend of the individual patient.
1260 ~~6. The appropriate Florida local advocacy council as~~
1261 ~~provided in s. 402.166.~~
1262 (e) The following persons are prohibited from selection as
1263 an individual's representative:
1264 1. A professional providing clinical services to the
1265 individual under this part;
1266 2. The licensed professional who initiated the involuntary
1267 examination of the individual, if the examination was initiated
1268 by professional certificate;
1269 3. An employee, administrator, or board member of the
1270 facility providing the examination of the individual;
1271 4. An employee, administrator, or board member of a
1272 treatment facility providing treatment of the individual;
1273 5. A person providing any substantial professional services
1274 to the individual, including clinical and nonclinical services;
1275 6. A creditor of the individual;
1276 7. A person subject to an injunction for protection against
1277 domestic violence under s. 741.30, whether the order of
1278 injunction is temporary or final, and for which the individual
1279 was the petitioner; and
1280 8. A person subject to an injunction for protection against
1281 repeat violence, sexual violence, or dating violence under s.
1282 784.046, whether the order of injunction is temporary or final,
1283 and for which the individual was the petitioner.
1284 ~~(e) A licensed professional providing services to the~~
1285 ~~patient under this part, an employee of a facility providing~~
1286 ~~direct services to the patient under this part, a department~~
1287 ~~employee, a person providing other substantial services to the~~



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1288 ~~patient in a professional or business capacity, or a creditor of~~
1289 ~~the patient shall not be appointed as the patient's~~
1290 ~~representative.~~

1291 (f) The representative selected by the individual or
1292 designated by the facility has the right to:

1293 1. Receive notice of the individual's admission;

1294 2. Receive notice of proceedings affecting the individual;

1295 3. Have immediate access to the individual unless such
1296 access is documented to be detrimental to the individual;

1297 4. Receive notice of any restriction of the individual's
1298 right to communicate or receive visitors;

1299 5. Receive a copy of the inventory of personal effects upon
1300 the individual's admission and to request an amendment to the
1301 inventory at any time;

1302 6. Receive disposition of the individual's clothing and
1303 personal effects if not returned to the individual, or to
1304 approve an alternate plan;

1305 7. Petition on behalf of the individual for a writ of
1306 habeas corpus to question the cause and legality of the
1307 individual's detention or to allege that the individual is being
1308 unjustly denied a right or privilege granted under this part, or
1309 that a procedure authorized under this part is being abused;

1310 8. Apply for a change of venue for the individual's
1311 involuntary placement hearing for the convenience of the parties
1312 or witnesses or because of the individual's condition;

1313 9. Receive written notice of any restriction of the
1314 individual's right to inspect his or her clinical record;

1315 10. Receive notice of the release of the individual from a
1316 receiving facility where an involuntary examination was



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1317 performed;

1318 11. Receive a copy of any petition for the individual's
1319 involuntary placement filed with the court; and

1320 12. Be informed by the court of the individual's right to
1321 an independent expert evaluation pursuant to involuntary
1322 placement procedures.

1323 Section 12. Effective July 1, 2016, section 394.4598,
1324 Florida Statutes, is amended to read:

1325 394.4598 Guardian advocate.—

1326 (1) The administrator, a family member, or other interested
1327 party may petition the court for the appointment of a guardian
1328 advocate based upon the opinion of a psychiatrist that an
1329 individual held for examination or admitted for mental health or
1330 substance abuse treatment ~~the patient~~ is incompetent to consent
1331 to treatment. If the court finds that the individual ~~a patient~~
1332 is incompetent to consent to treatment and has not been
1333 adjudicated incapacitated and a guardian having with the
1334 authority to consent to mental health or substance abuse
1335 treatment has not been appointed, it shall appoint a guardian
1336 advocate. The individual ~~patient~~ has the right to have an
1337 attorney represent him or her at the hearing. If the individual
1338 ~~person~~ is indigent, the court shall appoint the office of the
1339 public defender to represent the individual if the individual is
1340 the subject of a mental illness petition and the office of
1341 criminal conflict and civil regional counsel to represent the
1342 individual if the individual is the subject of a substance abuse
1343 petition ~~him or her~~ at the hearing. The individual ~~patient~~ has
1344 the right to testify, cross-examine witnesses, and present
1345 witnesses. The proceeding must ~~shall~~ be recorded ~~either~~



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1346 electronically or stenographically, and testimony shall be
1347 ~~provided~~ under oath. One of the professionals authorized to give
1348 an opinion in support of a petition for involuntary placement,
1349 as described in s. 394.4655 or s. 394.467, shall ~~must~~ testify.
1350 The A guardian advocate shall ~~must~~ meet the qualifications of a
1351 guardian pursuant to ~~contained in~~ part IV of chapter 744, ~~except~~
1352 ~~that a professional referred to in this part, an employee of the~~
1353 ~~facility providing direct services to the patient under this~~
1354 ~~part, a departmental employee, a facility administrator, or~~
1355 ~~member of the Florida local advocacy council shall not be~~
1356 ~~appointed. A person who is appointed as a guardian advocate must~~
1357 ~~agree to the appointment. A person may not be appointed as a~~
1358 ~~guardian advocate unless he or she agrees to the appointment.~~

1359 (2) The following persons are prohibited from being
1360 appointed as an individual's guardian advocate:

1361 (a) A professional providing clinical services to the
1362 individual under this part;

1363 (b) The licensed professional who initiated the involuntary
1364 examination of the individual, if the examination was initiated
1365 by professional certificate;

1366 (c) An employee, administrator, or board member of the
1367 facility providing the examination of the individual;

1368 (d) An employee, administrator, or board member of a
1369 treatment facility providing treatment of the individual;

1370 (e) A person providing any substantial professional
1371 services to the individual, including clinical and nonclinical
1372 services;

1373 (f) A creditor of the individual;

1374 (g) A person subject to an injunction for protection



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1375 against domestic violence under s. 741.30, whether the order of
1376 injunction is temporary or final, and for which the individual
1377 was the petitioner; and

1378 (h) A person subject to an injunction for protection
1379 against repeat violence, sexual violence, or dating violence
1380 under s. 784.046, whether the order of injunction is temporary
1381 or final, and for which the individual was the petitioner.

1382 (3) ~~(2)~~ A facility requesting appointment of a guardian
1383 advocate must, prior to the appointment, provide the prospective
1384 guardian advocate with information about the duties and
1385 responsibilities of guardian advocates, including the
1386 information about the ethics of medical decisionmaking. Before
1387 asking a guardian advocate to give consent to treatment for an
1388 individual held for examination or admitted for mental health or
1389 substance abuse treatment ~~a patient~~, the facility shall provide
1390 ~~to the guardian advocate~~ sufficient information to allow ~~so that~~
1391 the guardian advocate to ~~can~~ decide whether to give express and
1392 informed consent to the treatment, including information that
1393 the treatment is essential to the care of the individual
1394 ~~patient~~, and that the treatment does not present an unreasonable
1395 risk of serious, hazardous, or irreversible side effects. Before
1396 giving consent to treatment, the guardian advocate must meet and
1397 talk with the individual ~~patient~~ and the individual's ~~patient's~~
1398 physician face to face in person, if ~~at all~~ possible, and by
1399 telephone, if not. The guardian advocate shall make every effort
1400 to make decisions regarding treatment that he or she believes
1401 the individual would have made under the circumstances if the
1402 individual were capable of making such a decision. The decision
1403 of the guardian advocate may be reviewed by the court, upon



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1404 petition of the individual's ~~patient's~~ attorney, the
1405 individual's ~~patient's~~ family, or the facility administrator.

1406 (4)~~(3)~~ ~~Prior to~~ A guardian advocate must attend at least a
1407 4-hour training course approved by the court before exercising
1408 his or her authority, ~~the guardian advocate shall attend a~~
1409 ~~training course approved by the court.~~ This training course, ~~of~~
1410 ~~not less than 4 hours,~~ must include, at minimum, information
1411 about an ~~the~~ individual's ~~patient~~ rights, psychotropic
1412 medications, diagnosis of mental illness or substance abuse
1413 impairment, the ethics of medical decisionmaking, and the duties
1414 of guardian advocates. This training course shall take the place
1415 of the training required for guardians appointed pursuant to
1416 chapter 744.

1417 (5)~~(4)~~ The information to be supplied to prospective
1418 guardian advocates before ~~prior to~~ their appointment and the
1419 training course for guardian advocates must be developed and
1420 completed through a course developed by the department and
1421 approved by the chief judge of the circuit court and taught by a
1422 court-approved organization. Court-approved organizations may
1423 include, but need ~~are~~ not be limited to, community ~~or junior~~
1424 colleges, guardianship organizations, and the local bar
1425 association or The Florida Bar. The court may, ~~in its~~
1426 ~~discretion,~~ waive some or all of the training requirements for
1427 guardian advocates or impose additional requirements. The court
1428 shall make its decision on a case-by-case basis and, in making
1429 its decision, shall consider the experience and education of the
1430 guardian advocate, the duties assigned to the guardian advocate,
1431 and the needs of the individual subject to involuntary placement
1432 ~~patient.~~



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1433 ~~(5)~~ (6) In selecting a guardian advocate, the court shall
1434 give preference to a health care surrogate, if one has already
1435 been designated by the individual held for examination or
1436 admitted for mental health or substance abuse treatment ~~patient~~.

1437 If the individual ~~patient~~ has not previously selected a health
1438 care surrogate, except for good cause documented in the court
1439 record, the selection shall be made from the following list in
1440 the order of listing:

- 1441 (a) The individual's ~~patient's~~ spouse.
- 1442 (b) An adult child of the individual ~~patient~~.
- 1443 (c) A parent of the individual ~~patient~~.
- 1444 (d) The adult next of kin of the individual ~~patient~~.
- 1445 (e) An adult friend of the individual ~~patient~~.
- 1446 (f) An adult trained and willing to serve as guardian
1447 advocate for the individual ~~patient~~.

1448 ~~(6)~~ (7) If a guardian with the authority to consent to
1449 medical treatment has not already been appointed or if the
1450 individual held for examination or admitted for mental health or
1451 substance abuse treatment ~~patient~~ has not already designated a
1452 health care surrogate, the court may authorize the guardian
1453 advocate to consent to medical treatment, as well as mental
1454 health and substance abuse treatment. Unless otherwise limited
1455 by the court, a guardian advocate with authority to consent to
1456 medical treatment shall have the same authority to make health
1457 care decisions and be subject to the same restrictions as a
1458 proxy appointed under part IV of chapter 765. Unless the
1459 guardian advocate has sought and received express court approval
1460 in proceeding separate from the proceeding to determine the
1461 competence of the patient to consent to medical treatment, the



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1462 guardian advocate may not consent to:

1463 (a) Abortion.

1464 (b) Sterilization.

1465 (c) Electroconvulsive treatment.

1466 (d) Psychosurgery.

1467 (e) Experimental treatments that have not been approved by
1468 a federally approved institutional review board in accordance
1469 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1470

1471 In making a medical treatment decision under this subsection,
1472 the court shall ~~must~~ base its decision on evidence that the
1473 treatment or procedure is essential to the care of the
1474 individual patient and that the treatment does not present an
1475 unreasonable risk of serious, hazardous, or irreversible side
1476 effects. The court shall follow the procedures set forth in
1477 subsection (1) of this section.

1478 (8) ~~(7)~~ The guardian advocate shall be discharged when the
1479 individual for whom he or she is appointed patient is discharged
1480 from an order for involuntary outpatient ~~placement~~ or
1481 involuntary inpatient placement or when the individual patient
1482 is transferred from involuntary to voluntary status. The court
1483 ~~or a hearing officer~~ shall consider the competence of the
1484 individual patient pursuant to subsection (1) and may consider
1485 an involuntarily placed individual's patient's competence to
1486 consent to treatment at any hearing. Upon sufficient evidence,
1487 the court may restore, or the magistrate or administrative law
1488 judge hearing officer may recommend that the court restore, the
1489 individual's patient's competence. A copy of the order restoring
1490 competence or the certificate of discharge containing the



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1491 restoration of competence shall be provided to the individual
1492 ~~patient~~ and the guardian advocate.

1493 Section 13. Section 394.4599, Florida Statutes, is amended
1494 to read:

1495 394.4599 Notice.—

1496 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's
1497 a voluntary ~~patient's~~ admission shall ~~only~~ be given only at the
1498 request of the individual patient, except that, in an emergency,
1499 notice shall be given as determined by the facility.

1500 (2) INVOLUNTARY ADMISSION PATIENTS.—

1501 (a) Whenever notice is required to be given under this
1502 part, such notice shall be given to the individual patient and
1503 the individual's patient's guardian, guardian advocate, health
1504 care surrogate or proxy, attorney, and representative.

1505 1. When notice is required to be given to an individual a
1506 ~~patient~~, it shall be given both orally and in writing, in the
1507 language and terminology that the individual patient can
1508 understand, and, if needed, the facility shall provide an
1509 interpreter for the individual patient.

1510 2. Notice to an individual's a ~~patient's~~ guardian, guardian
1511 advocate, health care surrogate or proxy, attorney, and
1512 representative shall be given by ~~United States mail and by~~
1513 ~~registered or certified~~ mail with the date, time, and method of
1514 notice delivery documented in receipts attached to the patient's
1515 clinical record. Hand delivery by a facility employee may be
1516 used as an alternative, with the date and time of delivery
1517 documented in the clinical record. If notice is given by a state
1518 attorney or an attorney for the department, a certificate of
1519 service ~~is shall be~~ sufficient to document service.



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1520 (b) A receiving facility shall give prompt notice of the
1521 whereabouts of an individual ~~a patient~~ who is being
1522 involuntarily held for examination to the individual's guardian,
1523 guardian advocate, health care surrogate or proxy, attorney or
1524 representative, by telephone or in person within 24 hours after
1525 the individual's ~~patient's~~ arrival at the facility, ~~unless the~~
1526 ~~patient requests that no notification be made.~~ Contact attempts
1527 shall be documented in the individual's ~~patient's~~ clinical
1528 record and shall begin as soon as reasonably possible after the
1529 individual's ~~patient's~~ arrival. ~~Notice that a patient is being~~
1530 ~~admitted as an involuntary patient shall be given to the Florida~~
1531 ~~local advocacy council no later than the next working day after~~
1532 ~~the patient is admitted.~~

1533 (c)1. A receiving facility shall give notice of the
1534 whereabouts of a minor who is being involuntarily held for
1535 examination pursuant to s. 394.463 to the minor's parent,
1536 guardian, caregiver, or guardian advocate, in person or by
1537 telephone or other form of electronic communication, immediately
1538 after the minor's arrival at the facility. The facility may not
1539 delay notification for no more than 24 hours after the minor's
1540 arrival if the facility has submitted a report to the central
1541 abuse hotline, pursuant to s. 39.201, based upon knowledge or
1542 suspicion of abuse, abandonment, or neglect and if the facility
1543 deems a delay in notification to be in the minor's best
1544 interest.

1545 2. The receiving facility shall attempt to notify the
1546 minor's parent, guardian, caregiver, or guardian advocate until
1547 the receiving facility receives confirmation from the parent,
1548 guardian, caregiver, or guardian advocate, verbally, by



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1549 telephone or other form of electronic communication, or by
1550 recorded message, that notification has been received. Attempts
1551 to notify the parent, guardian, caregiver, or guardian advocate
1552 must be repeated at least once each hour during the first 12
1553 hours after the minor's arrival and once every 24 hours
1554 thereafter and must continue until such confirmation is
1555 received, unless the minor is released at the end of the 72-hour
1556 examination period, or until a petition for involuntary
1557 placement is filed with the court pursuant to s. 394.463(2)(i).
1558 The receiving facility may seek assistance from a law
1559 enforcement agency to notify the minor's parent, guardian,
1560 caregiver, or guardian advocate if the facility has not
1561 received, within the first 24 hours after the minor's arrival, a
1562 confirmation by the parent, guardian, caregiver, or guardian
1563 advocate that notification has been received. The receiving
1564 facility must document notification attempts in the minor's
1565 clinical record.

1566 (d)~~(e)~~ The written notice of the filing of the petition for
1567 involuntary placement of an individual being held must contain
1568 the following:

1569 1. Notice that the petition has been filed with the circuit
1570 court in the county in which the individual patient is
1571 hospitalized and the address of such court.

1572 2. Notice that the office of the public defender has been
1573 appointed to represent the individual patient in the proceeding,
1574 if the individual patient is not otherwise represented by
1575 counsel.

1576 3. The date, time, and place of the hearing and the name of
1577 each examining expert and every other person expected to testify



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1578 in support of continued detention.

1579 4. Notice that the individual patient, the individual's
1580 patient's guardian, guardian advocate, health care surrogate or
1581 proxy, or representative, or the administrator may apply for a
1582 change of venue for the convenience of the parties or witnesses
1583 or because of the condition of the individual patient.

1584 5. Notice that the individual patient is entitled to an
1585 independent expert examination and, if the individual patient
1586 cannot afford such an examination, that the court will provide
1587 for one.

1588 (e)~~(d)~~ A treatment facility shall provide notice of an
1589 individual's a patient's involuntary admission on the next
1590 regular working day after the individual's patient's arrival at
1591 the facility.

1592 (f)~~(e)~~ When an individual a patient is to be transferred
1593 from one facility to another, notice shall be given by the
1594 facility where the individual patient is located before ~~prior to~~
1595 the transfer.

1596 Section 14. Effective July 1, 2016, subsections (1), (2),
1597 (3), and (10) of section 394.4615, Florida Statutes, are amended
1598 to read:

1599 394.4615 Clinical records; confidentiality.-

1600 (1) A clinical record shall be maintained for each
1601 individual held for examination or admitted for treatment under
1602 this part patient. The record shall include data pertaining to
1603 admission and such other information as may be required under
1604 rules of the department. A clinical record is confidential and
1605 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by
1606 express and informed consent of the individual, ~~by the patient~~



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1607 or his or her ~~the patient's~~ guardian, ~~or~~ guardian advocate,
1608 health care surrogate or proxy, or, if the individual patient is
1609 deceased, by his or her guardian, guardian advocate, health care
1610 surrogate or proxy, by his or her ~~the patient's~~ personal
1611 representative or the family member who stands next in line of
1612 intestate succession, the confidential status of the clinical
1613 record shall not be lost by either authorized or unauthorized
1614 disclosure to any person, organization, or agency.

1615 (2) The clinical record of an individual held for
1616 examination or admitted for treatment under this part shall be
1617 released if when:

1618 (a) The individual patient or the individual's patient's
1619 guardian, guardian advocate, health care surrogate or proxy, or
1620 representative authorizes the release. The guardian, ~~or~~ guardian
1621 advocate, health care surrogate or proxy shall be provided
1622 access to the appropriate clinical records ~~of the patient~~. The
1623 individual patient or the patient's guardian, or guardian
1624 advocate, health care surrogate or proxy may authorize the
1625 release of information and clinical records to appropriate
1626 persons to ensure the continuity of the individual's patient's
1627 health care or mental health or substance abuse care.

1628 (b) The individual patient is represented by counsel and
1629 the records are needed by the individual's patient's counsel for
1630 adequate representation.

1631 (c) A petition for involuntary inpatient placement is filed
1632 and the records are needed by the state attorney to evaluate the
1633 allegations set forth in the petition or to prosecute the
1634 petition. However, the state attorney may not use clinical
1635 records obtained under this part for the purpose of criminal



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1636 investigation or prosecution, or for any other purpose not
1637 authorized by this part.

1638 (d)~~(e)~~ The court orders such release. In determining
1639 whether there is good cause for disclosure, the court shall
1640 weigh the need for the information to be disclosed against the
1641 possible harm of disclosure to the individual ~~person~~ to whom
1642 such information pertains.

1643 (e)~~(d)~~ The individual ~~patient~~ is committed to, or is to be
1644 returned to, the Department of Corrections ~~from the Department~~
1645 ~~of Children and Families,~~ and the Department of Corrections
1646 requests such records. These records shall be furnished without
1647 charge to the Department of Corrections.

1648 (3) Information from the clinical record may be released in
1649 the following circumstances:

1650 (a) When a patient has declared an intention to harm other
1651 persons. When such declaration has been made, the administrator
1652 may authorize the release of sufficient information to provide
1653 adequate warning to law enforcement agencies and to the person
1654 threatened with harm by the patient.

1655 (b) When the administrator of the facility or secretary of
1656 the department deems release to a qualified researcher as
1657 defined in administrative rule, an aftercare treatment provider,
1658 or an employee or agent of the department is necessary for
1659 treatment of the patient, maintenance of adequate records,
1660 compilation of treatment data, aftercare planning, or evaluation
1661 of programs.

1662
1663 For the purpose of determining whether a person meets the
1664 criteria for involuntary outpatient placement or for preparing



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1665 the proposed treatment plan pursuant to s. 394.4655, the
1666 clinical record may be released to the state attorney, the
1667 public defender if the individual is the subject of a mental
1668 illness petition, the office of criminal conflict and civil
1669 regional counsel if the individual is the subject of a substance
1670 abuse petition, or the patient's private legal counsel, the
1671 court, and to the appropriate mental health professionals,
1672 including the service provider identified in s. 394.4655(7)(b)
1673 s. 394.4655(6)(b)2., in accordance with state and federal law.

1674 (10) An individual held for examination or admitted for
1675 treatment ~~Patients~~ shall have reasonable access to his or her
1676 ~~their~~ clinical records, unless such access is determined by the
1677 individual's ~~patient's~~ physician to be harmful to the individual
1678 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or
1679 her clinical record is restricted by the facility, written
1680 notice of such restriction shall be given to the individual
1681 ~~patient~~ and the individual's ~~patient's~~ guardian, guardian
1682 advocate, health care surrogate or proxy, or attorney, and
1683 representative. In addition, the restriction shall be recorded
1684 in the clinical record, together with the reasons for it. The
1685 restriction of an individual's ~~a patient's~~ right to inspect his
1686 or her clinical record shall expire after 7 days but may be
1687 renewed, after review, for subsequent 7-day periods.

1688 Section 15. Effective July 1, 2016, subsection (1) of
1689 section 394.462, Florida Statutes, is amended to read:

1690 394.462 Transportation.—

1691 (1) TRANSPORTATION TO A RECEIVING OR DETOXIFICATION
1692 FACILITY.—

1693 (a) Each county shall designate a single law enforcement



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1694 agency within the county, or portions thereof, to take an
1695 individual ~~a person~~ into custody upon the entry of an ex parte
1696 order or the execution of a certificate for involuntary
1697 examination by an authorized professional and to transport that
1698 individual ~~person~~ to the nearest receiving facility for
1699 examination. The designated law enforcement agency may decline
1700 to transport the individual ~~person~~ to a receiving or
1701 detoxification facility only if:

1702 1. The county or jurisdiction designated by the county has
1703 contracted ~~on an annual basis~~ with an emergency medical
1704 transport service or private transport company for
1705 transportation of individuals ~~persons~~ to receiving facilities
1706 ~~pursuant to this section at the sole cost of the county;~~ and

1707 2. The law enforcement agency and the emergency medical
1708 transport service or private transport company agree that the
1709 continued presence of law enforcement personnel is not necessary
1710 for the safety of the individuals being transported ~~person~~ or
1711 others.

1712 3. The jurisdiction designated by the county may seek
1713 reimbursement for transportation expenses. The party responsible
1714 for payment for such transportation is the person receiving the
1715 transportation. The county shall seek reimbursement from the
1716 following sources in the following order:

1717 a. From an insurance company, health care corporation, or
1718 other source, if the individual being transported ~~person~~
1719 ~~receiving the transportation~~ is covered by an insurance policy
1720 or subscribes to a health care corporation or other source for
1721 payment of such expenses.

1722 b. From the individual being transported ~~person receiving~~



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1723 ~~the transportation.~~

1724 c. From a financial settlement for medical care, treatment,
1725 hospitalization, or transportation payable or accruing to the
1726 injured party.

1727 (b) Any company that transports a patient pursuant to this
1728 subsection is considered an independent contractor and is solely
1729 liable for the safe and dignified transportation of the patient.
1730 Such company must be insured and provide no less than \$100,000
1731 in liability insurance with respect to the transportation of
1732 patients.

1733 (c) Any company that contracts with a governing board of a
1734 county to transport patients shall comply with the applicable
1735 rules of the department to ensure the safety and dignity of the
1736 patients.

1737 (d) When a law enforcement officer takes custody of a
1738 person pursuant to this part, the officer may request assistance
1739 from emergency medical personnel if such assistance is needed
1740 for the safety of the officer or the person in custody.

1741 (e) When a member of a mental health overlay program or a
1742 mobile crisis response service is a professional authorized to
1743 initiate an involuntary examination pursuant to s. 394.463 and
1744 that professional evaluates a person and determines that
1745 transportation to a receiving facility is needed, the service,
1746 at its discretion, may transport the person to the facility or
1747 may call on the law enforcement agency or other transportation
1748 arrangement best suited to the needs of the patient.

1749 (f) When a ~~any~~ law enforcement officer has custody of a
1750 person, based on ~~either noncriminal or minor criminal~~ behavior,
1751 a misdemeanor, or a felony other than a forcible felony as



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1752 defined in s. 776.08, who ~~that~~ meets the statutory guidelines
1753 for involuntary examination under this part, the law enforcement
1754 officer shall transport the individual ~~person~~ to the nearest
1755 receiving facility for examination.

1756 (g) When any law enforcement officer has arrested a person
1757 for a forcible felony as defined in s. 776.08 and it appears
1758 that the person meets the criteria ~~statutory guidelines~~ for
1759 involuntary examination ~~or placement~~ under this part, such
1760 person shall first be processed in the same manner as any other
1761 criminal suspect. The law enforcement agency shall thereafter
1762 immediately notify the nearest public receiving facility, which
1763 shall be responsible for promptly arranging for the examination
1764 and treatment of the person. A receiving facility may ~~is~~ not
1765 ~~required to~~ admit a person charged with a forcible felony as
1766 defined in s. 776.08 ~~crime~~ for whom the facility determines and
1767 documents that it is unable to provide adequate security, but
1768 shall provide ~~mental health~~ examination and treatment to the
1769 person at the location where he or she is held.

1770 (h) If the appropriate law enforcement officer believes
1771 that a person has an emergency medical condition as defined in
1772 s. 395.002, the person may be first transported to a hospital
1773 for emergency medical treatment, regardless of whether the
1774 hospital is a designated receiving facility.

1775 (i) The costs of transportation, evaluation,
1776 hospitalization, and treatment incurred under this subsection by
1777 persons who have been arrested for violations of any state law
1778 or county or municipal ordinance may be recovered as provided in
1779 s. 901.35.

1780 (j) The nearest receiving facility must accept persons



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1781 brought by law enforcement officers for involuntary examination.

1782 (k) Each law enforcement agency shall develop a memorandum
1783 of understanding with each receiving facility within the law
1784 enforcement agency's jurisdiction which reflects a single set of
1785 protocols for the safe and secure transportation of the person
1786 and transfer of custody of the person. These protocols must also
1787 address crisis intervention measures.

1788 (l) When a jurisdiction has entered into a contract with an
1789 emergency medical transport service or a private transport
1790 company for transportation of persons to receiving facilities,
1791 such service or company shall be given preference for
1792 transportation of persons from nursing homes, assisted living
1793 facilities, adult day care centers, or adult family-care homes,
1794 unless the behavior of the person being transported is such that
1795 transportation by a law enforcement officer is necessary.

1796 (m) Nothing in this section shall be construed to limit
1797 emergency examination and treatment of incapacitated persons
1798 provided in accordance with the provisions of s. 401.445.

1799 Section 16. Effective July 1, 2016, subsections (1), (2),
1800 (4), and (5) of section 394.4625, Florida Statutes, are amended
1801 to read:

1802 394.4625 Voluntary admissions.—

1803 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
1804 PATIENTS.—

1805 (a) In order to be voluntarily admitted to a facility A
1806 facility may receive for observation, diagnosis, or treatment:
1807 any person 18 years of age or older making application by
1808 express and informed consent for admission or any person age 17
1809 or under for whom such application is made by his or her



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1810 guardian. ~~If found to~~

1811 1. An individual must show evidence of mental illness or
1812 substance abuse impairment, to be competent to provide express
1813 and informed consent, and to be suitable for treatment, such
1814 person 18 years of age or older may be admitted to the facility.
1815 ~~A person age 17 or under may be admitted only after a hearing to~~
1816 ~~verify the voluntariness of the consent.~~

1817 2. An individual must be suitable for treatment by the
1818 facility.

1819 3. An adult must provide, and be competent to provide,
1820 express and informed consent.

1821 4. A minor's guardian must provide express and informed
1822 consent, in conjunction with the consent of the minor. However,
1823 a minor may be admitted to an addictions receiving facility or
1824 detoxification facility by his or her own consent without his or
1825 her guardian's consent, if a physician documents in the clinical
1826 record that the minor has a substance abuse impairment. If the
1827 minor is admitted by his or her own consent and without the
1828 consent of his or her guardian, the facility must request the
1829 minor's permission to notify an adult family member or friend of
1830 the minor's voluntary admission into the facility.

1831 a. The consent of the minor is an affirmative agreement by
1832 the minor to remain at the facility for examination and
1833 treatment, and failure to object does not constitute consent.

1834 b. The minor's consent must be verified through a clinical
1835 assessment that is documented in the clinical record and
1836 conducted within 12 hours after arrival at the facility by a
1837 licensed professional authorized to initiate an involuntary
1838 examination pursuant to s. 394.463.



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1839 c. In verifying the minor's consent, and using language
1840 that is appropriate to the minor's age, experience, maturity,
1841 and condition, the examining professional must provide the minor
1842 with an explanation as to why the minor will be examined and
1843 treated, what the minor can expect while in the facility, and
1844 when the minor may expect to be released. The examining
1845 professional must determine and document that the minor is able
1846 to understand the information.

1847 d. Unless the minor's consent is verified pursuant to this
1848 section, a petition for involuntary inpatient placement shall be
1849 filed with the court within 1 court working day after his or her
1850 arrival or the minor must be released to his or her guardian.

1851 (b) A mental health overlay program or a mobile crisis
1852 response service or a licensed professional who is authorized to
1853 initiate an involuntary examination pursuant to s. 394.463 and
1854 is employed by a community mental health center or clinic must,
1855 pursuant to district procedure approved by the respective
1856 district administrator, conduct an initial assessment of the
1857 ability of the following persons to give express and informed
1858 consent to treatment before such persons may be admitted
1859 voluntarily:

1860 1. A person 60 years of age or older for whom transfer is
1861 being sought from a nursing home, assisted living facility,
1862 adult day care center, or adult family-care home, when such
1863 person has been diagnosed as suffering from dementia.

1864 2. A person 60 years of age or older for whom transfer is
1865 being sought from a nursing home pursuant to s. 400.0255(12).

1866 3. A person for whom all decisions concerning medical
1867 treatment are currently being lawfully made by the health care



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1868 surrogate or proxy designated under chapter 765.

1869 (c) When an initial assessment of the ability of a person
1870 to give express and informed consent to treatment is required
1871 under this section, and a mobile crisis response service does
1872 not respond to the request for an assessment within 2 hours
1873 after the request is made or informs the requesting facility
1874 that it will not be able to respond within 2 hours after the
1875 request is made, the requesting facility may arrange for
1876 assessment by any licensed professional authorized to initiate
1877 an involuntary examination pursuant to s. 394.463 who is not
1878 employed by or under contract with, and does not have a
1879 financial interest in, either the facility initiating the
1880 transfer or the receiving facility to which the transfer may be
1881 made.

1882 (d) A facility may not admit as a voluntary patient a
1883 person who has been adjudicated incapacitated, unless the
1884 condition of incapacity has been judicially removed. If a
1885 facility admits as a voluntary patient a person who is later
1886 determined to have been adjudicated incapacitated, and the
1887 condition of incapacity had not been removed by the time of the
1888 admission, the facility must either discharge the patient or
1889 transfer the patient to involuntary status.

1890 (e) The health care surrogate or proxy of an individual on
1891 a voluntary status ~~patient~~ may not consent to the provision of
1892 mental health treatment or substance abuse treatment for that
1893 individual ~~the patient~~. An individual on voluntary status ~~A~~
1894 ~~voluntary patient~~ who is unwilling or unable to provide express
1895 and informed consent to mental health treatment must ~~either~~ be
1896 discharged or transferred to involuntary status.



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1897 (f) Within 24 hours after admission of a voluntary patient,
1898 the admitting physician shall document in the patient's clinical
1899 record that the patient is able to give express and informed
1900 consent for admission. If the patient is not able to give
1901 express and informed consent for admission, the facility shall
1902 either discharge the patient or transfer the patient to
1903 involuntary status pursuant to subsection (5).

1904 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

1905 (a) A facility shall discharge a voluntary patient:

1906 1. Who has sufficiently improved so that retention in the
1907 facility is no longer desirable. A patient may also be
1908 discharged to the care of a community facility.

1909 2. Who revokes consent to admission or requests discharge.
1910 A voluntary patient or a relative, friend, or attorney of the
1911 patient may request discharge either orally or in writing at any
1912 time following admission to the facility. The patient must be
1913 discharged within 24 hours of the request, unless the request is
1914 rescinded or the patient is transferred to involuntary status
1915 pursuant to this section. The 24-hour time period may be
1916 extended by a treatment facility when necessary for adequate
1917 discharge planning, but shall not exceed 3 days exclusive of
1918 weekends and holidays. If the patient, or another on the
1919 patient's behalf, makes an oral request for discharge to a staff
1920 member, such request shall be immediately entered in the
1921 patient's clinical record. If the request for discharge is made
1922 by a person other than the patient, the discharge may be
1923 conditioned upon the express and informed consent of the
1924 patient.

1925 (b) A voluntary patient who has been admitted to a facility



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1926 and who refuses to consent to or revokes consent to treatment
1927 shall be discharged within 24 hours after such refusal or
1928 revocation, unless transferred to involuntary status pursuant to
1929 this section or unless the refusal or revocation is freely and
1930 voluntarily rescinded by the patient.

1931 (c) An individual on voluntary status who is currently
1932 charged with a crime shall be returned to the custody of a law
1933 enforcement officer upon release or discharge from a facility,
1934 unless the individual has been released from law enforcement
1935 custody by posting of a bond, by a pretrial conditional release,
1936 or by other judicial release.

1937 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on
1938 involuntary status ~~patient~~ who has been assessed and certified
1939 by a physician or psychologist as competent to provide express
1940 and informed consent and who applies to be transferred to
1941 voluntary status shall be transferred to voluntary status
1942 immediately, unless the individual ~~patient~~ ~~has been charged with~~
1943 ~~a crime, or~~ has been involuntarily placed for treatment by a
1944 court pursuant to s. 394.467 and continues to meet the criteria
1945 for involuntary placement. When transfer to voluntary status
1946 occurs, notice shall be given as provided in s. 394.4599.

1947 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on
1948 ~~When a~~ voluntary status ~~patient,~~ or an authorized person on the
1949 individual's ~~patient's~~ behalf, makes a request for discharge,
1950 the request for discharge, unless freely and voluntarily
1951 rescinded, must be communicated to a physician, ~~clinical~~
1952 psychologist, or psychiatrist as quickly as possible within, ~~but~~
1953 ~~not later than~~ 12 hours after the request is made. If the
1954 individual ~~patient~~ meets the criteria for involuntary placement,



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1955 the individual must be transferred to a designated receiving
1956 facility and the administrator of the receiving facility where
1957 the individual is held must file with the court a petition for
1958 involuntary placement, within 2 court working days after the
1959 request ~~for discharge~~ is made. If the petition is not filed
1960 within 2 court working days, the individual must ~~patient shall~~
1961 be discharged. Pending the filing of the petition, the
1962 individual ~~patient~~ may be held and emergency mental health
1963 treatment rendered in the least restrictive manner, upon the
1964 written order of a physician, if it is determined that such
1965 treatment is necessary for the safety of the individual ~~patient~~
1966 or others.

1967 Section 17. Effective July 1, 2016, section 394.463,
1968 Florida Statutes, is amended to read:

1969 394.463 Involuntary examination.—

1970 (1) CRITERIA.—A person may be subject to an ~~taken to a~~
1971 ~~receiving facility for~~ involuntary examination if there is
1972 reason to believe that he or she ~~the person~~ has a mental illness
1973 or substance abuse impairment and because of this ~~his or her~~
1974 mental illness or substance abuse impairment:

1975 (a)1. The person has refused voluntary examination after
1976 conscientious explanation and disclosure of the purpose of the
1977 examination; or

1978 2. The person is unable to determine for himself or herself
1979 whether examination is necessary; and

1980 (b)1. Without care or treatment, the person is likely to
1981 suffer from neglect or refuse to care for himself or herself;
1982 such neglect or refusal poses a real and present threat of
1983 substantial harm to his or her well-being; and it is not



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1984 apparent that such harm may be avoided through the help of
1985 willing family members or friends or the provision of other
1986 services; or

1987 2. There is a substantial likelihood that without care or
1988 treatment the person will cause serious bodily harm to himself
1989 or herself or others in the near future, as evidenced by recent
1990 behavior.

1991 (2) INVOLUNTARY EXAMINATION.—

1992 (a) An involuntary examination may be initiated by any one
1993 of the following means:

1994 1. A court may enter an ex parte order stating that an
1995 individual ~~a person~~ appears to meet the criteria for involuntary
1996 examination, giving the findings on which that conclusion is
1997 based. The ex parte order for involuntary examination must be
1998 based on sworn testimony, written or oral, which includes
1999 specific facts that support the finding that the criteria have
2000 been met. Any behavior relied on for the issuance of an ex parte
2001 order must have occurred within the preceding 7 calendar days.
2002 The order must specify whether the individual must be taken to a
2003 mental health facility, detoxification facility, or addictions
2004 receiving facility. If other less restrictive means are not
2005 available, such as voluntary appearance for outpatient
2006 evaluation, A law enforcement officer, or other designated agent
2007 of the court, shall take the individual ~~person~~ into custody and
2008 deliver him or her to the nearest receiving facility of the type
2009 specified in the order for involuntary examination. However, if
2010 the county in which the individual is taken into custody has a
2011 transportation exception plan specifying a central receiving
2012 facility, the law enforcement officer shall transport the



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2013 individual to the central receiving facility pursuant to the
2014 plan. The ~~order of the court order~~ must ~~shall~~ be made a part of
2015 the ~~patient's~~ clinical record. A ~~No~~ fee ~~may not~~ ~~shall~~ be charged
2016 for the filing of an order under this subsection. Any ~~receiving~~
2017 facility accepting the individual patient based on the court's
2018 ~~this~~ order must send a copy of the order to the Agency for
2019 Health Care Administration on the next working day. The order is
2020 ~~shall be~~ valid only until executed or, if not executed, for the
2021 period specified in the order itself. If no time limit is
2022 specified in the order, the order is ~~shall be~~ valid for 7 days
2023 after the date it ~~that the order~~ was signed.

2024 2. A law enforcement officer shall take a person who
2025 appears to meet the criteria for involuntary examination into
2026 custody and deliver ~~the person or have~~ him or her ~~delivered~~ to
2027 the nearest mental health receiving facility, addictions
2028 receiving facility, or detoxification facility, whichever the
2029 officer determines is most appropriate for examination. However,
2030 if the county in which the individual taken into custody has a
2031 transportation exception plan specifying a central receiving
2032 facility, the law enforcement officer shall transport the
2033 individual to the central receiving facility pursuant to the
2034 plan. The officer shall complete ~~execute~~ a written report
2035 detailing the circumstances under which the individual person
2036 was taken into custody., ~~and~~ The report shall be made a part of
2037 the patient's clinical record. Any receiving facility or
2038 detoxification facility accepting the individual patient based
2039 on the ~~this~~ report must send a copy of the report to the Agency
2040 for Health Care Administration on the next working day.

2041 3. A physician, clinical psychologist, psychiatric nurse,



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2042 mental health counselor, marriage and family therapist, or
2043 clinical social worker may execute a certificate stating that he
2044 or she has examined the individual ~~a person~~ within the preceding
2045 48 hours and finds that the individual ~~person~~ appears to meet
2046 the criteria for involuntary examination and stating the
2047 observations upon which that conclusion is based. The
2048 certificate must specify whether the individual is to be taken
2049 to a mental health receiving facility, an addictions receiving
2050 facility, or a detoxification facility, and must include
2051 specific facts supporting the conclusion that the individual
2052 would benefit from services provided by the type of facility
2053 specified. ~~If other less restrictive means are not available,~~
2054 ~~such as voluntary appearance for outpatient evaluation,~~ A law
2055 enforcement officer shall take the individual ~~person~~ named in
2056 the certificate into custody and deliver him or her to the
2057 nearest ~~receiving~~ facility of the type specified in the
2058 certificate for involuntary examination. However, if the county
2059 in which the individual is taken into custody has a
2060 transportation exception plan specifying a central receiving
2061 facility, the law enforcement officer shall transport the
2062 individual to the central receiving facility pursuant to the
2063 plan. A law enforcement officer may only take an individual into
2064 custody on the basis of a certificate within 7 calendar days
2065 after execution of the certificate. The law enforcement officer
2066 shall complete ~~execute~~ a written report detailing the
2067 circumstances under which the individual ~~person~~ was taken into
2068 custody. The report and certificate shall be made a part of the
2069 ~~patient's~~ clinical record. Any ~~receiving~~ facility accepting the
2070 individual ~~patient~~ based on the ~~this~~ certificate must send a



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2071 copy of the certificate to the Agency for Health Care
2072 Administration on the next working day.

2073 (b) An individual may ~~A person shall~~ not be removed from a
2074 ~~any~~ program or residential placement licensed under chapter 400
2075 or chapter 429 and transported to a receiving facility for
2076 involuntary examination unless an ex parte order, a professional
2077 certificate, or a law enforcement officer's report is first
2078 prepared. If the condition of the individual ~~person~~ is such that
2079 preparation of a law enforcement officer's report is not
2080 practicable before removal, the report must ~~shall~~ be completed
2081 as soon as possible after removal, but ~~in any case~~ before the
2082 individual ~~person~~ is transported to a receiving facility. A
2083 receiving facility admitting an individual ~~a person~~ for
2084 involuntary examination who is not accompanied by the required
2085 ex parte order, professional certificate, or law enforcement
2086 officer's report must ~~shall~~ notify the Agency for Health Care
2087 Administration of such admission by certified mail by ~~no later~~
2088 ~~than~~ the next working day. ~~The provisions of this paragraph do~~
2089 ~~not apply when transportation is provided by the patient's~~
2090 ~~family or guardian.~~

2091 (c) A law enforcement officer acting in accordance with an
2092 ex parte order issued pursuant to this subsection may serve and
2093 execute such order on any day of the week, at any time of the
2094 day or night.

2095 (d) A law enforcement officer acting in accordance with an
2096 ex parte order issued pursuant to this subsection may use such
2097 reasonable physical force as is necessary to gain entry to the
2098 premises, and any dwellings, buildings, or other structures
2099 located on the premises, and to take custody of the person who



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2100 is the subject of the ex parte order.

2101 (e) Petitions and ~~The Agency for Health Care Administration~~
2102 ~~shall receive and maintain the copies of ex parte orders,~~
2103 ~~involuntary outpatient placement orders, involuntary outpatient~~
2104 ~~placement petitions and orders issued pursuant to s. 394.4655,~~
2105 ~~involuntary inpatient placement petitions and orders issued~~
2106 ~~pursuant to s. 394.467, professional certificates, and law~~
2107 ~~enforcement officers' reports are. These documents shall be~~
2108 ~~considered part of the clinical record, governed by the~~
2109 ~~provisions of s. 394.4615. The agency shall prepare annual~~
2110 ~~reports analyzing the data obtained from these documents,~~
2111 ~~without information identifying individuals held for examination~~
2112 ~~or admitted for mental health and substance abuse treatment~~
2113 ~~patients, and shall provide copies of reports to the department,~~
2114 ~~the President of the Senate, the Speaker of the House of~~
2115 ~~Representatives, and the minority leaders of the Senate and the~~
2116 ~~House of Representatives.~~

2117 (f) An individual held for examination ~~A patient~~ shall be
2118 ~~examined by a physician, a clinical psychologist, or a~~
2119 ~~psychiatric nurse performing within the framework of an~~
2120 ~~established protocol with a psychiatrist at a receiving facility~~
2121 ~~without unnecessary delay and may, upon the order of a~~
2122 ~~physician, be given emergency mental health or substance abuse~~
2123 ~~treatment if it is determined that such treatment is necessary~~
2124 ~~for the safety of the individual patient or others. The patient~~
2125 ~~may not be released by the receiving facility or its contractor~~
2126 ~~without the documented approval of a psychiatrist, a clinical~~
2127 ~~psychologist, or, if the receiving facility is a hospital, the~~
2128 ~~release may also be approved by an attending emergency~~



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2129 ~~department physician with experience in the diagnosis and~~
2130 ~~treatment of mental and nervous disorders and after completion~~
2131 ~~of an involuntary examination pursuant to this subsection.~~
2132 ~~However, a patient may not be held in a receiving facility for~~
2133 ~~involuntary examination longer than 72 hours.~~

2134 (g) An individual may not be held for involuntary
2135 examination for more than 72 hours from the time of the
2136 individual's arrival at the facility, except that this period
2137 may be extended by 48 hours if a physician documents in the
2138 clinical record that the individual has ongoing symptoms of
2139 substance intoxication or substance withdrawal and the
2140 individual would likely experience significant clinical benefit
2141 from detoxification services. This determination must be made
2142 based on a face-to-face examination conducted by the physician
2143 no less than 48 hours and not more than 72 hours after the
2144 individual's arrival at the facility. Based on the individual's
2145 needs, one of the following actions must be taken within the
2146 involuntary examination period:

2147 1. The individual shall be released with the approval of a
2148 psychiatrist or clinical psychologist. However, if the
2149 examination is conducted in a receiving facility that is owned
2150 or operated by a hospital or health system, an emergency
2151 department physician or a psychiatric nurse performing within
2152 the framework of an established protocol with a psychiatrist may
2153 approve the release. A psychiatric nurse may not approve the
2154 release of a patient when the involuntary examination has been
2155 initiated by a psychiatrist, unless the release is approved by
2156 the initiating psychiatrist.

2157 2. The individual shall be asked to provide express and



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2158 informed consent for voluntary admission if a physician or
2159 psychologist has determined that the individual is competent to
2160 consent to treatment; or

2161 3. A petition for involuntary placement shall be completed
2162 and filed in the circuit court by the receiving facility
2163 administrator if involuntary outpatient or inpatient placement
2164 is deemed necessary. If the 72-hour period ends on a weekend or
2165 legal holiday, the petition must be filed by the next working
2166 day. If inpatient placement is deemed necessary, the least
2167 restrictive treatment consistent with the optimum improvement of
2168 the individual's condition must be made available.

2169 (h) An individual released from a receiving or treatment
2170 facility on a voluntary or involuntary basis who is currently
2171 charged with a crime shall be returned to the custody of law
2172 enforcement, unless the individual has been released from law
2173 enforcement custody by posting of a bond, by a pretrial
2174 conditional release, or by other judicial release.

2175 (i) If an individual ~~A person~~ for whom an involuntary
2176 examination has been initiated ~~who~~ is being evaluated or treated
2177 at a hospital for an emergency medical condition specified in s.
2178 395.002 ~~the involuntary examination period must be examined by a~~
2179 ~~receiving facility within 72 hours. The 72-hour period begins~~
2180 when the individual patient arrives at the hospital and ceases
2181 when ~~a the attending~~ physician documents that the individual
2182 ~~patient~~ has an emergency medical condition. The 72-hour period
2183 resumes when the physician documents that the emergency medical
2184 condition has stabilized or does not exist. ~~If the patient is~~
2185 ~~examined at a hospital providing emergency medical services by a~~
2186 ~~professional qualified to perform an involuntary examination and~~



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2187 ~~is found as a result of that examination not to meet the~~
2188 ~~criteria for involuntary outpatient placement pursuant to s.~~
2189 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~
2190 ~~394.467(1), the patient may be offered voluntary placement, if~~
2191 ~~appropriate, or released directly from the hospital providing~~
2192 ~~emergency medical services. The finding by the professional that~~
2193 ~~the patient has been examined and does not meet the criteria for~~
2194 ~~involuntary inpatient placement or involuntary outpatient~~
2195 ~~placement must be entered into the patient's clinical record.~~
2196 ~~Nothing in this paragraph is intended to prevent A hospital~~
2197 ~~providing emergency medical services may transfer an individual~~
2198 ~~from appropriately transferring a patient to another hospital~~
2199 ~~before prior to stabilization if, provided the requirements of~~
2200 ~~s. 395.1041(3)(c) are have been met. One of the following~~
2201 ~~actions must occur within 12 hours after a physician documents~~
2202 ~~that the individual's emergency medical condition has stabilized~~
2203 ~~or does not exist:~~

2204 ~~(h) One of the following must occur within 12 hours after~~
2205 ~~the patient's attending physician documents that the patient's~~
2206 ~~medical condition has stabilized or that an emergency medical~~
2207 ~~condition does not exist:~~

2208 ~~1. The individual shall be examined by a physician,~~
2209 ~~psychiatric nurse or psychologist and, if found not to meet the~~
2210 ~~criteria for involuntary examination pursuant to s. 394.463,~~
2211 ~~shall be released directly from the hospital providing the~~
2212 ~~emergency medical services. The results of the examination,~~
2213 ~~including the final disposition, shall be entered into the~~
2214 ~~clinical records; or~~

2215 ~~2. The individual shall be transferred to a receiving~~



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2216 facility for examination if appropriate medical and mental
2217 health treatment is available. However, the receiving facility
2218 must be notified of the transfer within 2 hours after the
2219 individual's condition has been stabilized or after
2220 determination that an emergency medical condition does not
2221 exist. The patient must be examined by a designated receiving
2222 facility and released; or

2223 ~~2. The patient must be transferred to a designated~~
2224 ~~receiving facility in which appropriate medical treatment is~~
2225 ~~available. However, the receiving facility must be notified of~~
2226 ~~the transfer within 2 hours after the patient's condition has~~
2227 ~~been stabilized or after determination that an emergency medical~~
2228 ~~condition does not exist.~~

2229 ~~(i) Within the 72-hour examination period or, if the 72~~
2230 ~~hours ends on a weekend or holiday, no later than the next~~
2231 ~~working day thereafter, one of the following actions must be~~
2232 ~~taken, based on the individual needs of the patient:~~

2233 ~~1. The patient shall be released, unless he or she is~~
2234 ~~charged with a crime, in which case the patient shall be~~
2235 ~~returned to the custody of a law enforcement officer;~~

2236 ~~2. The patient shall be released, subject to the provisions~~
2237 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2238 ~~3. The patient, unless he or she is charged with a crime,~~
2239 ~~shall be asked to give express and informed consent to placement~~
2240 ~~as a voluntary patient, and, if such consent is given, the~~
2241 ~~patient shall be admitted as a voluntary patient; or~~

2242 ~~4. A petition for involuntary placement shall be filed in~~
2243 ~~the circuit court when outpatient or inpatient treatment is~~
2244 ~~deemed necessary. When inpatient treatment is deemed necessary,~~



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2245 ~~the least restrictive treatment consistent with the optimum~~
2246 ~~improvement of the patient's condition shall be made available.~~
2247 ~~When a petition is to be filed for involuntary outpatient~~
2248 ~~placement, it shall be filed by one of the petitioners specified~~
2249 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
2250 ~~placement shall be filed by the facility administrator.~~

2251 (3) NOTICE OF RELEASE.—Notice of the release shall be given
2252 to the individual's ~~patient's~~ guardian, health care surrogate or
2253 proxy, or representative, to any person who executed a
2254 certificate admitting the individual ~~patient~~ to the receiving
2255 facility, and to any court that ~~which~~ ordered the individual's
2256 examination ~~patient's evaluation~~.

2257 Section 18. Effective July 1, 2016, section 394.4655,
2258 Florida Statutes, is amended to read:

2259 394.4655 Involuntary outpatient placement.—

2260 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An
2261 individual ~~A person~~ may be ordered to involuntary outpatient
2262 placement upon a finding of the court ~~that~~ by clear and
2263 convincing evidence that:

2264 (a) The individual is an adult ~~person is 18 years of age or~~
2265 ~~older~~;

2266 (b) The individual ~~person~~ has a mental illness or substance
2267 abuse impairment;

2268 (c) The individual ~~person~~ is unlikely to survive safely in
2269 the community without supervision, based on a clinical
2270 determination;

2271 (d) The individual ~~person~~ has a history of lack of
2272 compliance with treatment for mental illness or substance abuse
2273 impairment;



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2274 (e) The individual ~~person~~ has:

2275 1. Within ~~At least twice within~~ the immediately preceding

2276 36 months, been involuntarily admitted to a receiving or

2277 treatment facility ~~as defined in s. 394.455~~, or has received

2278 mental health or substance abuse services in a forensic or

2279 correctional facility. The 36-month period does not include any

2280 period during which the individual ~~person~~ was admitted or

2281 incarcerated; or

2282 2. Engaged in one or more acts of serious violent behavior

2283 toward self or others, or attempts at serious bodily harm to

2284 himself or herself or others, within the preceding 36 months;

2285 (f) Due to ~~The person is, as a result of~~ his or her mental

2286 illness or substance abuse impairment, the individual is ~~7~~

2287 unlikely to voluntarily participate in the recommended treatment

2288 plan and ~~either he or she~~ has refused voluntary placement for

2289 treatment after sufficient and conscientious explanation and

2290 disclosure of the purpose of placement for treatment or ~~he or~~

2291 ~~she~~ is unable to determine for himself or herself whether

2292 placement is necessary;

2293 (g) In view of the individual's ~~person's~~ treatment history

2294 and current behavior, the individual ~~person~~ is in need of

2295 involuntary outpatient placement in order to prevent a relapse

2296 or deterioration that would be likely to result in serious

2297 bodily harm to self ~~himself or herself~~ or others, or a

2298 substantial harm to his or her well-being as set forth in s.

2299 394.463(1);

2300 (h) It is likely that the individual ~~person~~ will benefit

2301 from involuntary outpatient placement; and

2302 (i) All available, less restrictive alternatives that ~~would~~



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2303 offer an opportunity for improvement of his or her condition
2304 have been judged to be inappropriate or unavailable.

2305 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

2306 (a)~~1.~~ An individual ~~A patient~~ who is being recommended for
2307 involuntary outpatient placement by the administrator of the
2308 receiving facility where he or she ~~the patient~~ has been examined
2309 may be retained by the facility after adherence to the notice
2310 procedures provided in s. 394.4599.

2311 1. The recommendation must be supported by the opinion of a
2312 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2313 or another psychiatrist, both of whom have personally examined
2314 the individual ~~patient~~ within the preceding 72 hours, that the
2315 criteria for involuntary outpatient placement are met. However,
2316 in a county having a population of fewer than 50,000, if the
2317 administrator certifies that a psychiatrist or clinical
2318 psychologist is not available to provide the second opinion, the
2319 second opinion may be provided by a ~~licensed~~ physician who has
2320 postgraduate training and experience in diagnosis and treatment
2321 of mental and nervous disorders or by a psychiatric nurse. Any
2322 second opinion authorized in this subparagraph may be conducted
2323 through a face-to-face examination, in person or by electronic
2324 means. Such recommendation must be entered on an involuntary
2325 outpatient placement certificate that authorizes the receiving
2326 facility to retain the individual ~~patient~~ pending completion of
2327 a hearing. The certificate shall be made a part of the patient's
2328 clinical record.

2329 2. If the individual ~~patient~~ has been stabilized and no
2330 longer meets the criteria for involuntary examination pursuant
2331 to s. 394.463(1), he or she ~~the patient~~ must be released from



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2332 the receiving facility while awaiting the hearing for
2333 involuntary outpatient placement.

2334 3. Before filing a petition for involuntary outpatient
2335 treatment, the administrator of the ~~a~~ receiving facility or a
2336 designated department representative must identify the service
2337 provider that will have primary responsibility for service
2338 provision under an order for involuntary outpatient placement,
2339 unless the individual ~~person~~ is otherwise participating in
2340 outpatient psychiatric treatment and is not in need of public
2341 financing for that treatment, in which case the individual, if
2342 eligible, may be ordered to involuntary treatment pursuant to
2343 the existing psychiatric treatment relationship.

2344 4.3. ~~The~~ service provider shall prepare a written proposed
2345 treatment plan in consultation with the individual being held
2346 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2347 appointed, for the court's consideration for inclusion in the
2348 involuntary outpatient placement order. The service provider
2349 shall ~~also~~ provide a copy of the proposed treatment plan to the
2350 individual ~~patient~~ and the administrator of the receiving
2351 facility. The treatment plan must specify the nature and extent
2352 of the individual's ~~patient's~~ mental illness or substance abuse
2353 impairment, address the reduction of symptoms that necessitate
2354 involuntary outpatient placement, and include measurable goals
2355 and objectives for the services and treatment that are provided
2356 to treat the individual's ~~person's~~ mental illness or substance
2357 abuse impairment and assist the individual ~~person~~ in living and
2358 functioning in the community or to prevent a relapse or
2359 deterioration. Service providers may select and supervise other
2360 providers ~~individuals~~ to implement specific aspects of the



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2361 treatment plan. The services in the treatment plan must be
2362 deemed clinically appropriate by a physician, ~~clinical~~
2363 psychologist, psychiatric nurse, mental health counselor,
2364 marriage and family therapist, or clinical social worker who
2365 consults with, or is employed or contracted by, the service
2366 provider. The service provider must certify to the court in the
2367 proposed treatment plan whether sufficient services for
2368 improvement and stabilization are currently available and
2369 whether the service provider agrees to provide those services.
2370 If the service provider certifies that the services in the
2371 proposed treatment plan are not available, the petitioner may
2372 not file the petition.

2373 (b) If an individual ~~a patient~~ in involuntary inpatient
2374 placement meets the criteria for involuntary outpatient
2375 placement, the administrator of the treatment facility may,
2376 before the expiration of the period during which the treatment
2377 facility is authorized to retain the individual ~~patient~~,
2378 recommend involuntary outpatient placement.

2379 1. The recommendation must be supported by the opinion of a
2380 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2381 or another psychiatrist, both of whom have personally examined
2382 the individual ~~patient~~ within the preceding 72 hours, that the
2383 criteria for involuntary outpatient placement are met. However,
2384 in a county having a population of fewer than 50,000, if the
2385 administrator certifies that a psychiatrist or ~~clinical~~
2386 psychologist is not available to provide the second opinion, the
2387 second opinion may be provided by a licensed physician who has
2388 postgraduate training and experience in diagnosis and treatment
2389 of mental and nervous disorders or by a psychiatric nurse. Any



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2390 second opinion authorized in this subparagraph may be conducted
2391 through a face-to-face examination, in person or by electronic
2392 means. Such recommendation must be entered on an involuntary
2393 outpatient placement certificate, and the certificate must be
2394 made a part of the individual's ~~patient's~~ clinical record.

2395 ~~2.(e)1.~~ The administrator of the treatment facility shall
2396 provide a copy of the involuntary outpatient placement
2397 certificate and a copy of the state mental health discharge form
2398 to a department representative in the county where the
2399 individual ~~patient~~ will be residing. ~~For persons who are leaving~~
2400 ~~a state mental health treatment facility, the petition for~~
2401 ~~involuntary outpatient placement must be filed in the county~~
2402 ~~where the patient will be residing.~~

2403 ~~3.2.~~ The service provider that will have primary
2404 responsibility for service provision shall be identified by the
2405 designated department representative prior to the order for
2406 involuntary outpatient placement and must, before ~~prior to~~
2407 filing a petition for involuntary outpatient placement, certify
2408 to the court whether the services recommended in the
2409 individual's ~~patient's~~ discharge plan are available in the local
2410 community and whether the service provider agrees to provide
2411 those services. The service provider must develop with the
2412 individual ~~patient~~, or the patient's guardian advocate, if one
2413 is appointed, a treatment or service plan that addresses the
2414 needs identified in the discharge plan. The plan must be deemed
2415 to be clinically appropriate by a physician, ~~clinical~~
2416 psychologist, psychiatric nurse, mental health counselor,
2417 marriage and family therapist, or clinical social worker, ~~as~~
2418 ~~defined in this chapter,~~ who consults with, or is employed or



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2419 contracted by, the service provider.

2420 ~~3. If the service provider certifies that the services in~~
2421 ~~the proposed treatment or service plan are not available, the~~
2422 ~~petitioner may not file the petition.~~

2423 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2424 (a) A petition for involuntary outpatient placement may be
2425 filed by:

2426 1. The administrator of a mental health receiving facility,
2427 an addictions receiving facility, or a detoxification facility;
2428 or

2429 2. The administrator of a treatment facility.

2430 (b) Each required criterion for involuntary outpatient
2431 placement must be alleged and substantiated in the petition for
2432 involuntary outpatient placement. A copy of the certificate
2433 recommending involuntary outpatient placement completed by a
2434 qualified professional specified in subsection (2) must be
2435 attached to the petition. A copy of the proposed treatment plan
2436 must be attached to the petition. Before the petition is filed,
2437 the service provider shall certify that the services in the
2438 proposed treatment plan are available. If the necessary services
2439 are not available in the patient's local community where the
2440 individual will reside ~~to respond to the person's individual~~
2441 ~~needs~~, the petition may not be filed.

2442 (c) ~~A~~ The petition for involuntary outpatient placement
2443 must be filed in the county where the individual who is the
2444 subject of the petition ~~patient~~ is located, unless the
2445 individual ~~patient~~ is being placed from a state treatment
2446 facility, in which case the petition must be filed in the county
2447 where the individual ~~patient~~ will reside. When the petition is



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2448 ~~has been~~ filed, the clerk of the court shall provide copies of
2449 the petition and the proposed treatment plan to the department,
2450 the individual patient, the individual's patient's guardian,
2451 guardian advocate, health care surrogate or proxy, or
2452 representative, the state attorney, and the public defender or
2453 the individual's patient's private counsel. A fee may not be
2454 charged for filing a petition under this subsection.

2455 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2456 after ~~the~~ filing of a petition for involuntary outpatient
2457 placement, the court shall appoint the public defender to
2458 represent the individual if the individual ~~person who~~ is the
2459 subject of a mental illness ~~the~~ petition and the office of
2460 criminal conflict and civil regional counsel to represent the
2461 individual if the individual is the subject of a substance abuse
2462 petition, unless the individual ~~person~~ is otherwise represented
2463 by counsel. The clerk of the court shall immediately notify the
2464 public defender or the office of criminal conflict and civil
2465 regional counsel of the appointment. The public defender or the
2466 office of criminal conflict and civil regional counsel shall
2467 represent the individual ~~person~~ until the petition is dismissed,
2468 the court order expires, or the individual patient is discharged
2469 from involuntary outpatient placement. An attorney who
2470 represents the individual patient shall have access to the
2471 individual patient, witnesses, and records relevant to the
2472 presentation of the individual's patient's case and shall
2473 represent the interests of the individual patient, regardless of
2474 the source of payment to the attorney. An attorney representing
2475 an individual in proceedings under this part shall advocate the
2476 individual's expressed desires and must be present and actively



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2477 participate in all hearings on involuntary placement.

2478 (5) CONTINUANCE OF HEARING.—The individual patient is
2479 entitled, with the concurrence of the individual's patient's
2480 counsel, to at least one continuance of the hearing. The
2481 continuance shall be for a period of up to 4 weeks.

2482 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

2483 (a)~~1~~. The court shall hold the hearing on involuntary
2484 outpatient placement within 5 court working days after the
2485 filing of the petition, unless a continuance is granted. The
2486 hearing shall be held in the county where the petition is filed,
2487 ~~shall~~ be as convenient to the individual who is the subject of
2488 the petition patient as is consistent with orderly procedure,
2489 and ~~shall~~ be conducted in physical settings not likely to be
2490 injurious to the individual's patient's condition. If the court
2491 finds that the individual's patient's attendance at the hearing
2492 is not consistent with the best interests of the individual
2493 patient and if the individual's patient's counsel does not
2494 object, the court may waive the presence of the individual
2495 patient from all or any portion of the hearing. The state
2496 attorney for the circuit in which the individual patient is
2497 located shall represent the state, rather than the petitioner,
2498 as the real party in interest in the proceeding. The state
2499 attorney shall have access to the individual's clinical record
2500 and witnesses and shall independently evaluate the allegations
2501 set forth in the petition for involuntary placement. If the
2502 allegations are substantiated, the state attorney shall
2503 prosecute the petition. If the allegations are not
2504 substantiated, the state attorney shall withdraw the petition.

2505 (b)~~2~~. The court may appoint a magistrate ~~master~~ to preside



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2506 at the hearing. One of the professionals who executed the
2507 involuntary outpatient placement certificate shall be a witness.
2508 The individual who is the subject of the petition ~~patient~~ and
2509 his or her ~~the patient's~~ guardian, guardian advocate, health
2510 care surrogate or proxy, or representative shall be informed by
2511 the court of the right to an independent expert examination. If
2512 the individual ~~patient~~ cannot afford such an examination, the
2513 court shall provide ~~for~~ one. The independent expert's report is
2514 ~~shall be~~ confidential and not discoverable, unless the expert is
2515 ~~to be~~ called as a witness for the individual ~~patient~~ at the
2516 hearing. The court shall allow testimony from persons
2517 ~~individuals~~, including family members, deemed by the court to be
2518 relevant ~~under state law~~, regarding the individual's ~~person's~~
2519 prior history and how that ~~prior~~ history relates to the
2520 individual's ~~person's~~ current condition. The testimony in the
2521 hearing must be ~~given~~ under oath, and the proceedings must be
2522 recorded. The individual ~~patient~~ may refuse to testify at the
2523 hearing.

2524 (c) The court shall consider testimony and evidence
2525 regarding the competence of the individual being held to consent
2526 to treatment. If the court finds that the individual is
2527 incompetent to consent, it shall appoint a guardian advocate as
2528 provided in s. 394.4598.

2529 (7) COURT ORDER.-

2530 (a) ~~(b) 1.~~ If the court concludes that the individual who is
2531 the subject of the petition ~~patient~~ meets the criteria for
2532 involuntary outpatient placement under ~~pursuant to~~ subsection
2533 (1), the court shall issue an order for involuntary outpatient
2534 placement. The court order may ~~shall~~ be for a ~~period of~~ up to 6



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2535 months. The order must specify the nature and extent of the
2536 individual's ~~patient's~~ mental illness or substance abuse
2537 impairment. The court order ~~of the court~~ and the treatment plan
2538 must ~~shall~~ be made part of the individual's ~~patient's~~ clinical
2539 record. The service provider shall discharge an individual ~~a~~
2540 ~~patient~~ from involuntary outpatient placement when the order
2541 expires or any time the individual ~~patient~~ no longer meets the
2542 criteria for involuntary placement. Upon discharge, the service
2543 provider shall send a certificate of discharge to the court.

2544 (b)2- The court may not order the department or the service
2545 provider to provide services if the program or service is not
2546 available in the ~~patient's~~ local community of the individual
2547 being served, if there is no space available in the program or
2548 service for the individual ~~patient~~, or if funding is not
2549 available for the program or service. A copy of the order must
2550 be sent to the Agency for Health Care Administration by the
2551 service provider within 1 working day after it is received from
2552 the court. After the placement order is issued, the service
2553 provider and the individual ~~patient~~ may modify ~~provisions~~ of the
2554 treatment plan. For any material modification of the treatment
2555 plan to which the individual ~~patient~~ or the individual's
2556 ~~patient's~~ guardian advocate, if appointed, does agree, the
2557 service provider shall send notice of the modification to the
2558 court. Any material modifications of the treatment plan which
2559 are contested by the individual ~~patient~~ or the individual's
2560 ~~patient's~~ guardian advocate, if appointed, must be approved or
2561 disapproved by the court consistent with the requirements of
2562 subsection (2).

2563 (c)3- If, in the clinical judgment of a physician, the



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2564 individual being served ~~patient~~ has failed or has refused to
2565 comply with the treatment ordered by the court, and, in the
2566 clinical judgment of the physician, efforts were made to solicit
2567 compliance and the individual ~~patient~~ may meet the criteria for
2568 involuntary examination, the individual ~~a person~~ may be brought
2569 to a receiving facility pursuant to s. 394.463 for involuntary
2570 examination. If, after examination, the individual ~~patient~~ does
2571 not meet the criteria for involuntary inpatient placement
2572 pursuant to s. 394.467, the individual ~~patient~~ must be
2573 discharged from the receiving facility. The involuntary
2574 outpatient placement order remains ~~shall remain~~ in effect unless
2575 the service provider determines that the individual ~~patient~~ no
2576 longer meets the criteria for involuntary outpatient placement
2577 or until the order expires. The service provider must determine
2578 whether modifications should be made to the existing treatment
2579 plan and must attempt to continue to engage the individual
2580 ~~patient~~ in treatment. For any material modification of the
2581 treatment plan to which the individual ~~patient~~ or the
2582 individual's ~~patient's~~ guardian advocate, if appointed, agrees
2583 ~~does agree~~, the service provider shall send notice of the
2584 modification to the court. Any material modifications of the
2585 treatment plan which are contested by the individual ~~patient~~ or
2586 the individual's ~~patient's~~ guardian advocate, if appointed, must
2587 be approved or disapproved by the court consistent with the
2588 requirements of subsection (2).

2589 (d) ~~(e)~~ If, at any time before the conclusion of the initial
2590 hearing on involuntary outpatient placement, it appears to the
2591 court that the individual ~~person~~ does not meet the criteria for
2592 involuntary outpatient placement under this section but,



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2593 ~~instead,~~ meets the criteria for involuntary inpatient placement,
2594 the court may order the individual ~~person~~ admitted for
2595 involuntary inpatient examination under s. 394.463. ~~If the~~
2596 ~~person instead meets the criteria for involuntary assessment,~~
2597 ~~protective custody, or involuntary admission pursuant to s.~~
2598 ~~397.675, the court may order the person to be admitted for~~
2599 ~~involuntary assessment for a period of 5 days pursuant to s.~~
2600 ~~397.6811. Thereafter, all proceedings shall be governed by~~
2601 ~~chapter 397.~~

2602 ~~(d) At the hearing on involuntary outpatient placement, the~~
2603 ~~court shall consider testimony and evidence regarding the~~
2604 ~~patient's competence to consent to treatment. If the court finds~~
2605 ~~that the patient is incompetent to consent to treatment, it~~
2606 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
2607 ~~The guardian advocate shall be appointed or discharged in~~
2608 ~~accordance with s. 394.4598.~~

2609 ~~(e) The administrator of the receiving facility, the~~
2610 ~~detoxification facility, or the designated department~~
2611 ~~representative shall provide a copy of the court order and~~
2612 ~~adequate documentation of an individual's ~~a patient's~~ mental~~
2613 ~~illness or substance abuse impairment to the service provider~~
2614 ~~for involuntary outpatient placement. Such documentation must~~
2615 ~~include any advance directives made by the individual ~~patient,~~ a~~
2616 ~~psychiatric evaluation of the individual ~~patient,~~ and any~~
2617 ~~evaluations of the individual ~~patient~~ performed by a ~~clinical~~~~
2618 ~~psychologist or a clinical social worker.~~

2619 ~~(8) (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
2620 ~~PLACEMENT.—~~

2621 ~~(a) 1.~~ If the individual ~~person~~ continues to meet the



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2622 criteria for involuntary outpatient placement, the service
2623 provider shall, before the expiration of the period during which
2624 the placement treatment is ordered ~~for the person~~, file in the
2625 circuit court a petition for continued involuntary outpatient
2626 placement.

2627 ~~1.2.~~ The existing involuntary outpatient placement order
2628 remains in effect until disposition of ~~on~~ the petition for
2629 continued involuntary outpatient placement.

2630 ~~2.3.~~ A certificate must ~~shall~~ be attached to the petition
2631 which includes a statement from the individual's ~~person's~~
2632 physician or ~~clinical~~ psychologist justifying the request, a
2633 brief description of the individual's ~~patient's~~ treatment during
2634 the time he or she was involuntarily placed, and a personalized
2635 ~~an individualized~~ plan of continued treatment.

2636 ~~3.4.~~ The service provider shall develop the ~~individualized~~
2637 plan of continued treatment in consultation with the individual
2638 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2639 appointed. When the petition has been filed, the clerk of the
2640 court shall provide copies of the certificate and the
2641 ~~individualized~~ plan of continued treatment to the department,
2642 the individual ~~patient~~, the individual's ~~patient's~~ guardian
2643 advocate, the state attorney, and the individual's ~~patient's~~
2644 private counsel, ~~or~~ the public defender, or the office of
2645 criminal conflict and civil regional counsel.

2646 (b) Within 1 court working day after the filing of a
2647 petition for continued involuntary outpatient placement, the
2648 court shall appoint the public defender to represent the
2649 individual if the individual ~~person who~~ is the subject of a the
2650 mental illness petition and the office of criminal conflict and



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2651 civil regional counsel to represent the individual if the
2652 individual is the subject of a substance abuse petition, unless
2653 the individual person is otherwise represented by counsel. The
2654 clerk of the court shall immediately notify the public defender
2655 or the office of criminal conflict and civil regional counsel of
2656 the such appointment. The public defender or the office of
2657 criminal conflict and civil regional counsel shall represent the
2658 individual person until the petition is dismissed, or the court
2659 order expires, or the individual patient is discharged from
2660 involuntary outpatient placement. Any attorney representing the
2661 individual patient shall have access to the individual patient,
2662 witnesses, and records relevant to the presentation of the
2663 individual's patient's case and shall represent the interests of
2664 the individual patient, regardless of the source of payment to
2665 the attorney.

2666 (c) The court shall inform the individual who is the
2667 subject of the petition and his or her guardian, guardian
2668 advocate, health care surrogate or proxy, or representative of
2669 the individual's right to an independent expert examination. If
2670 the individual cannot afford such an examination, the court
2671 shall provide one.

2672 (d) ~~(e)~~ Hearings on petitions for continued involuntary
2673 outpatient placement are shall be before the circuit court. The
2674 court may appoint a magistrate master to preside at the hearing.
2675 The procedures for obtaining an order pursuant to this paragraph
2676 must shall be in accordance with subsection (6), except that the
2677 time period included in paragraph (1) (e) is not applicable in
2678 determining the appropriateness of additional periods of
2679 involuntary outpatient placement.



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2680 (e)~~(d)~~ Notice of the hearing shall be provided in
2681 accordance with as set forth in s. 394.4599. The individual
2682 being served patient and the individual's patient's attorney may
2683 agree to a period of continued outpatient placement without a
2684 court hearing.

2685 (f)~~(e)~~ The same procedure shall be repeated before the
2686 expiration of each additional period the individual being served
2687 patient is placed in treatment.

2688 (g)~~(f)~~ If the individual in involuntary outpatient
2689 placement patient has previously been found incompetent to
2690 consent to treatment, the court shall consider testimony and
2691 evidence regarding the individual's patient's competence.
2692 Section 394.4598 governs the discharge of the guardian advocate
2693 if the individual's patient's competency to consent to treatment
2694 has been restored.

2695 Section 19. Effective on July 1, 2016, section 394.467,
2696 Florida Statutes, is amended to read:

2697 394.467 Involuntary inpatient placement.—

2698 (1) CRITERIA.—An individual ~~A person~~ may be placed in
2699 involuntary inpatient placement for treatment upon a finding of
2700 the court by clear and convincing evidence that:

2701 (a) He or she has a mental illness or substance abuse
2702 impairment ~~is mentally ill~~ and because of his or her mental
2703 illness or substance abuse impairment:

2704 1.a. He or she has refused voluntary placement for
2705 treatment after sufficient and conscientious explanation and
2706 disclosure of the purpose of placement for treatment; or

2707 b. He or she is unable to determine for himself or herself
2708 whether placement is necessary; and



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2709 2.a. He or she is manifestly incapable of surviving alone
2710 or with the help of willing and responsible family or friends,
2711 including available alternative services, and, without
2712 treatment, is likely to suffer from neglect or refuse to care
2713 for himself or herself, and such neglect or refusal poses a real
2714 and present threat of substantial harm to his or her well-being;
2715 or

2716 b. There is substantial likelihood that in the near future
2717 he or she will inflict serious bodily harm on self or others
2718 ~~himself or herself or another person~~, as evidenced by recent
2719 behavior causing, attempting, or threatening such harm; and

2720 (b) All available less restrictive treatment alternatives
2721 that ~~which would~~ offer an opportunity for improvement of his or
2722 her condition have been judged to be inappropriate.

2723 (2) ADMISSION TO A TREATMENT FACILITY.—An individual A
2724 ~~patient~~ may be retained by a mental health receiving facility,
2725 an addictions receiving facility, or a detoxification facility,
2726 or involuntarily placed in a treatment facility upon the
2727 recommendation of the administrator of the receiving facility
2728 where the individual patient has been examined and after
2729 adherence to the notice and hearing procedures provided in s.
2730 394.4599. The recommendation must be supported by the opinion of
2731 a psychiatrist and the second opinion of a ~~clinical~~ psychologist
2732 or another psychiatrist, both of whom have personally examined
2733 the individual patient within the preceding 72 hours, that the
2734 criteria for involuntary inpatient placement are met. However,
2735 in a county that has a population of fewer than 50,000, if the
2736 administrator certifies that a psychiatrist or ~~clinical~~
2737 psychologist is not available to provide the second opinion, the



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2738 second opinion may be provided by a licensed physician who has
2739 postgraduate training and experience in diagnosis and treatment
2740 of mental and nervous disorders or by a psychiatric nurse. If
2741 the petition seeks placement for treatment of substance abuse
2742 impairment only and the individual is examined by an addictions
2743 receiving facility or detoxification facility, the first opinion
2744 may be provided by a physician, and the second opinion may be
2745 provided by a qualified professional with respect to substance
2746 abuse treatment. Any second opinion authorized in this
2747 subsection may be conducted through a face-to-face examination,
2748 in person or by electronic means. Such recommendation must ~~shall~~
2749 be entered on an involuntary inpatient placement certificate
2750 that authorizes the receiving facility to retain the individual
2751 being held ~~patient~~ pending transfer to a treatment facility or
2752 completion of a hearing.

2753 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
2754 administrator of the mental health facility, addictions
2755 receiving facility, or detoxification facility shall file a
2756 petition for involuntary inpatient placement in the court in the
2757 county where the individual ~~patient~~ is located. Upon filing, the
2758 clerk of the court shall provide copies to the department, the
2759 individual ~~patient~~, the individual's ~~patient's~~ guardian,
2760 guardian advocate, health care surrogate or proxy, or
2761 representative, and the state attorney and public defender or
2762 office of criminal conflict and civil regional counsel of the
2763 judicial circuit in which the individual ~~patient~~ is located. A
2764 ~~No~~ fee may not ~~shall~~ be charged for the filing of a petition
2765 under this subsection.

2766 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day



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2767 after the filing of a petition for involuntary inpatient
2768 placement, the court shall appoint the public defender to
2769 represent the individual if the individual ~~person who~~ is the
2770 subject of a mental illness ~~the~~ petition and the office of
2771 criminal conflict and civil regional counsel to represent the
2772 individual if the individual is the subject of a substance abuse
2773 petition, unless the individual ~~person~~ is otherwise represented
2774 by counsel. The clerk of the court shall immediately notify the
2775 public defender or the office of criminal conflict and civil
2776 regional counsel of the ~~such~~ appointment. Any attorney
2777 representing the individual ~~patient~~ shall have access to the
2778 individual ~~patient~~, witnesses, and records relevant to the
2779 presentation of the individual's ~~patient's~~ case and shall
2780 represent the interests of the individual ~~patient~~, regardless of
2781 the source of payment to the attorney.

2782 (a) An attorney representing an individual in proceedings
2783 under this part shall advocate the individual's expressed
2784 desires and must be present and actively participate in all
2785 hearings on involuntary placement.

2786 (b) The state attorney for the judicial circuit in which
2787 the individual is located shall represent the state rather than
2788 the petitioning facility administrator as the real party in
2789 interest in the proceeding. The state attorney shall have access
2790 to the individual's clinical record and witnesses and shall
2791 independently evaluate the allegations set forth in the petition
2792 for involuntary placement. If the allegations are substantiated,
2793 the state attorney shall prosecute the petition. If the
2794 allegations are not substantiated, the state attorney shall
2795 withdraw the petition.



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2796 (5) CONTINUANCE OF HEARING.—The individual patient is
2797 entitled, with the concurrence of the individual's patient's
2798 counsel, to at least one continuance of the hearing. The
2799 continuance shall be for ~~a period of~~ up to 4 weeks.

2800 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2801 (a)~~1.~~ The court shall hold the hearing on involuntary
2802 inpatient placement within 5 court working days after the
2803 petition is filed, unless a continuance is granted.

2804 1. The hearing shall be held in the county where the
2805 individual patient is located and shall be as convenient to the
2806 individual patient as may be consistent with orderly procedure
2807 and shall be conducted in physical settings not likely to be
2808 injurious to the individual's patient's condition. If the
2809 individual wishes to waive his or her court finds that the
2810 patient's attendance at the hearing, the court must determine
2811 that the waiver is knowingly, intelligently, and voluntarily
2812 being waived and is not consistent with the best interests of
2813 the patient, and the patient's counsel does not object, the
2814 court may waive the presence of the individual patient from all
2815 or any portion of the hearing. ~~The state attorney for the~~
2816 ~~circuit in which the patient is located shall represent the~~
2817 ~~state, rather than the petitioning facility administrator, as~~
2818 ~~the real party in interest in the proceeding.~~

2819 2. The court may appoint a general or special magistrate to
2820 preside at the hearing. One of the two professionals who
2821 executed the involuntary inpatient placement certificate shall
2822 be a witness. The individual patient and the individual's
2823 patient's guardian, guardian advocate, health care surrogate or
2824 proxy, or representative shall be informed by the court of the



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2825 right to an independent expert examination. If the individual
2826 ~~patient~~ cannot afford such an examination, the court shall
2827 provide for one. The independent expert's report is ~~shall be~~
2828 confidential and not discoverable, unless the expert is to be
2829 called as a witness for the individual ~~patient~~ at the hearing.
2830 The testimony in the hearing must be given under oath, and the
2831 proceedings must be recorded. The individual ~~patient~~ may refuse
2832 to testify at the hearing.

2833 3. The court shall allow testimony from persons, including
2834 family members, deemed by the court to be relevant regarding the
2835 individual's prior history and how that prior history relates to
2836 the individual's current condition.

2837 (b) If the court concludes that the individual ~~patient~~
2838 meets the criteria for involuntary inpatient placement, it shall
2839 order that the individual ~~patient~~ be transferred to a treatment
2840 facility or, if the individual ~~patient~~ is at a treatment
2841 facility, that the individual ~~patient~~ be retained there or be
2842 treated at any other appropriate mental health receiving
2843 facility, addictions receiving facility, detoxification
2844 facility, or treatment facility, or that the individual patient
2845 receive services from such a facility ~~receiving or treatment~~
2846 facility, on an involuntary basis, for up to 90 days ~~a period of~~
2847 ~~up to 6 months~~. The order shall specify the nature and extent of
2848 the individual's patient's ~~mental illness or substance abuse~~
2849 impairment. The court may not order an individual with traumatic
2850 brain injury or dementia who lacks a co-occurring mental illness
2851 to be involuntarily placed in a state treatment facility. The
2852 facility shall discharge the individual at a patient any time
2853 the individual ~~patient~~ no longer meets the criteria for



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2854 involuntary inpatient placement, unless the individual patient
2855 has transferred to voluntary status.

2856 (c) If at any time before ~~prior to~~ the conclusion of the
2857 hearing on involuntary inpatient placement it appears to the
2858 court that the individual person does not meet the criteria for
2859 involuntary inpatient placement under this section, but instead
2860 meets the criteria for involuntary outpatient placement, the
2861 court may order the individual person evaluated for involuntary
2862 outpatient placement pursuant to s. 394.4655, ~~and~~ the petition
2863 and hearing procedures set forth in s. 394.4655 ~~shall~~ apply. ~~If~~
2864 ~~the person instead meets the criteria for involuntary~~
2865 ~~assessment, protective custody, or involuntary admission~~
2866 ~~pursuant to s. 397.675, then the court may order the person to~~
2867 ~~be admitted for involuntary assessment for a period of 5 days~~
2868 ~~pursuant to s. 397.6811. Thereafter, all proceedings shall be~~
2869 ~~governed by chapter 397.~~

2870 (d) At the hearing on involuntary inpatient placement, the
2871 court shall consider testimony and evidence regarding the
2872 individual's patient's competence to consent to treatment. If
2873 the court finds that the individual patient is incompetent to
2874 consent to treatment, it shall appoint a guardian advocate as
2875 provided in s. 394.4598.

2876 (e) The administrator of the petitioning receiving facility
2877 shall provide a copy of the court order and adequate
2878 documentation of the individual's a patient's mental illness or
2879 substance abuse impairment to the administrator of a treatment
2880 facility if the individual ~~whenever a patient~~ is ordered for
2881 involuntary inpatient placement, whether by civil or criminal
2882 court. The documentation must ~~shall~~ include any advance



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2883 directives made by the individual patient, a psychiatric
2884 evaluation of the individual patient, and any evaluations of the
2885 individual patient performed by a ~~clinical~~ psychologist, a
2886 marriage and family therapist, a mental health counselor, a
2887 substance abuse qualified professional or a clinical social
2888 worker. The administrator of a treatment facility may refuse
2889 admission to an individual ~~any patient~~ directed to its
2890 facilities on an involuntary basis, whether by civil or criminal
2891 court order, who is not accompanied at the same time by adequate
2892 orders and documentation.

2893 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
2894 PLACEMENT.—

2895 (a) Hearings on petitions for continued involuntary
2896 inpatient placement shall be administrative hearings and shall
2897 be conducted in accordance with ~~the provisions of~~ s. 120.57(1),
2898 except that an ~~any~~ order entered by an ~~the~~ administrative law
2899 judge is ~~shall be~~ final and subject to judicial review in
2900 accordance with s. 120.68. Orders concerning an individual
2901 ~~patients~~ committed after successfully pleading not guilty by
2902 reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s.
2903 916.15.

2904 (b) If the individual patient continues to meet the
2905 criteria for involuntary inpatient placement, the administrator
2906 shall, before ~~prior~~ to the expiration of the period ~~during which~~
2907 the ~~treatment~~ facility is authorized to retain the individual
2908 ~~patient~~, file a petition requesting authorization for continued
2909 involuntary inpatient placement. The request must ~~shall~~ be
2910 accompanied by a statement from the individual's ~~patient's~~
2911 physician or ~~clinical~~ psychologist justifying the request, a



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2912 brief description of the individual's ~~patient's~~ treatment during
2913 the time he or she was involuntarily placed, and a personalized
2914 ~~an individualized~~ plan of continued treatment. Notice of the
2915 hearing must ~~shall~~ be provided as set forth in s. 394.4599. If
2916 at the hearing the administrative law judge finds that
2917 attendance at the hearing is not consistent with the
2918 individual's best interests ~~of the patient~~, the administrative
2919 law judge may waive the presence of the individual ~~patient~~ from
2920 all or any portion of the hearing, unless the individual
2921 ~~patient~~, through counsel, objects to the waiver of presence. The
2922 testimony in the hearing must be under oath, and the proceedings
2923 must be recorded.

2924 (c) Unless the individual ~~patient~~ is otherwise represented
2925 or is ineligible, he or she shall be represented at the hearing
2926 on the petition for continued involuntary inpatient placement by
2927 the public defender of the circuit in which the facility is
2928 located.

2929 (d) The Division of Administrative Hearings shall inform
2930 the individual and his or her guardian, guardian advocate,
2931 health care surrogate or proxy, or representative of the right
2932 to an independent expert examination. If the individual cannot
2933 afford such an examination, the court shall provide one.

2934 (e) ~~(d)~~ If at a hearing it is shown that the individual
2935 ~~patient~~ continues to meet the criteria for involuntary inpatient
2936 placement, the administrative law judge shall sign the order for
2937 continued involuntary inpatient placement for a period of up to
2938 90 days ~~not to exceed 6 months~~. The same procedure must ~~shall~~ be
2939 repeated prior to the expiration of each additional period the
2940 individual ~~patient~~ is retained.



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2941 ~~(e)~~ (f) If continued involuntary inpatient placement is
2942 necessary for an individual ~~a patient~~ admitted while serving a
2943 criminal sentence, but whose sentence is about to expire, or for
2944 a minor ~~patient~~ involuntarily placed ~~while a minor~~ but who is
2945 about to reach the age of 18, the administrator shall petition
2946 the administrative law judge for an order authorizing continued
2947 involuntary inpatient placement.

2948 ~~(f)~~ (g) If the individual ~~previously~~ ~~patient~~ has been
2949 ~~previously~~ found incompetent to consent to treatment, the
2950 administrative law judge shall consider testimony and evidence
2951 regarding the individual's ~~patient's~~ competence. If the
2952 administrative law judge finds evidence that the individual
2953 ~~patient~~ is now competent to consent to treatment, the
2954 ~~administrative law~~ judge may issue a recommended order to the
2955 court that found the individual ~~patient~~ incompetent to consent
2956 to treatment that the individual's ~~patient's~~ competence be
2957 restored and that any guardian advocate previously appointed be
2958 discharged.

2959 (8) RETURN TO FACILITY OF PATIENTS. ~~If an individual held~~
2960 ~~When a patient~~ at a ~~treatment~~ facility involuntarily under this
2961 part leaves the facility without the administrator's
2962 authorization, the administrator may authorize a search for, ~~the~~
2963 ~~patient~~ and the return of, the individual ~~patient~~ to the
2964 facility. The administrator may request the assistance of a law
2965 enforcement agency ~~in the search for and return of the patient.~~

2966 Section 20. Effective July 1, 2016, section 394.4672,
2967 Florida Statutes, is amended to read:

2968 394.4672 Procedure for placement of veteran with federal
2969 agency.-



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2970 (1) A facility owned, operated, or administered by the
2971 United States Department of Veterans Affairs which provides
2972 mental health services has authority as granted by the
2973 Department of Veterans' Affairs to:

2974 (a) Initiate and conduct involuntary examinations pursuant
2975 to s. 394.463.

2976 (b) Provide voluntary treatment pursuant to s. 394.4625.

2977 (c) Petition for involuntary inpatient placement pursuant
2978 to s. 394.467.

2979 (d) Provide involuntary inpatient placement pursuant to
2980 this part.

2981 (2) ~~(1)~~ If a ~~Whenever it is determined by the court~~
2982 determines that an individual a ~~person~~ meets the criteria for
2983 involuntary placement and ~~he or she~~ ~~it appears that such person~~
2984 is eligible for care or treatment by the United States
2985 Department of Veterans Affairs or ~~another~~ ~~other~~ agency of the
2986 United States Government, the court, upon receipt of a
2987 certificate from the United States Department of Veterans
2988 Affairs or such other agency showing that facilities are
2989 available and that the individual ~~person~~ is eligible for care or
2990 treatment therein, may place that individual ~~person~~ with the
2991 United States Department of Veterans Affairs or other federal
2992 agency. The individual ~~person whose placement is sought~~ shall be
2993 personally served with notice of the pending placement
2994 proceeding in the manner as provided in this part. ~~and nothing~~
2995 ~~in~~ This section does not shall affect the individual's ~~his or~~
2996 ~~her~~ right to appear and be heard in the proceeding. Upon
2997 placement, the individual is ~~person shall be~~ subject to the
2998 ~~rules and~~ regulations of the United States Department of



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2999 Veterans Affairs or other federal agency.

3000 ~~(3)(2)~~ The judgment or order of placement issued by a court
3001 of competent jurisdiction of another state or of the District of
3002 Columbia which places an individual, ~~placing a person~~ with the
3003 United States Department of Veterans Affairs or other federal
3004 agency for care or treatment has, ~~shall have~~ the same force and
3005 effect in this state as in the jurisdiction of the court
3006 entering the judgment or making the order. ~~and~~ The courts of
3007 the placing state or of the District of Columbia shall retain ~~be~~
3008 ~~deemed to have retained~~ jurisdiction of the individual ~~person~~ ~~so~~
3009 placed. Consent is hereby given to the application of the law of
3010 the placing state or district with respect to the authority of
3011 the chief officer of any facility of the United States
3012 Department of Veterans Affairs or other federal agency operated
3013 in this state to retain custody or to transfer, parole, or
3014 discharge the individual ~~person~~.

3015 ~~(4)(3)~~ Upon receipt of a certificate of the United States
3016 Department of Veterans Affairs or another ~~such other~~ federal
3017 agency that facilities are available for the care or treatment
3018 of individuals who have mental illness or substance abuse
3019 impairment ~~mentally ill persons~~ and that an individual ~~the~~
3020 ~~person~~ is eligible for that care or treatment, the administrator
3021 of the receiving or treatment facility may ~~cause the~~ transfer ~~of~~
3022 that individual ~~person~~ to the United States Department of
3023 Veterans Affairs or other federal agency. Upon ~~effecting~~ such
3024 transfer, the committing court shall be notified by the
3025 transferring agency. An individual may not ~~No person shall~~ be
3026 transferred ~~to the United States Department of Veterans Affairs~~
3027 ~~or other federal agency~~ if he or she is confined pursuant to the



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3028 conviction of any felony or misdemeanor or if he or she has been
3029 acquitted of the charge solely on the ground of insanity, unless
3030 prior to transfer the court placing the individual ~~such person~~
3031 enters an order for the transfer after appropriate motion and
3032 hearing and without objection by the United States Department of
3033 Veterans Affairs.

3034 (5)-(4) An individual ~~Any person~~ transferred as provided in
3035 this section is ~~shall be~~ deemed to be placed with the United
3036 States Department of Veterans Affairs or other federal agency
3037 pursuant to the original placement.

3038 Section 21. Section 394.47891, Florida Statutes, is amended
3039 to read:

3040 394.47891 Military veterans and servicemembers court
3041 programs.—The chief judge of each judicial circuit may establish
3042 a Military Veterans and Servicemembers Court Program under which
3043 veterans, as defined in s. 1.01, including veterans who were
3044 discharged or released under a general discharge, and
3045 servicemembers, as defined in s. 250.01, who are charged or
3046 convicted of a criminal offense and who suffer from a military-
3047 related mental illness, traumatic brain injury, substance abuse
3048 disorder, or psychological problem can be sentenced in
3049 accordance with chapter 921 in a manner that appropriately
3050 addresses the severity of the mental illness, traumatic brain
3051 injury, substance abuse disorder, or psychological problem
3052 through services tailored to the individual needs of the
3053 participant. Entry into any Military Veterans and Servicemembers
3054 Court Program must be based upon the sentencing court's
3055 assessment of the defendant's criminal history, military
3056 service, substance abuse treatment needs, mental health



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3057 treatment needs, amenability to the services of the program, the
3058 recommendation of the state attorney and the victim, if any, and
3059 the defendant's agreement to enter the program.

3060 Section 22. Section 394.47892, Florida Statutes, is created
3061 to read:

3062 394.47892 Treatment-based mental health court programs.—

3063 (1) Each county may fund a treatment-based mental health
3064 court program under which defendants in the justice system
3065 assessed with a mental illness shall be processed in such a
3066 manner as to appropriately address the severity of the
3067 identified mental illness through treatment services tailored to
3068 the individual needs of the participant. The Legislature intends
3069 to encourage the Department of Corrections, the Department of
3070 Children and Families, the Department of Juvenile Justice, the
3071 Department of Health, the Department of Law Enforcement, the
3072 Department of Education, and other such agencies, local
3073 governments, law enforcement agencies, interested public or
3074 private entities, and individuals to support the creation and
3075 establishment of problem-solving court programs. Participation
3076 in treatment-based mental health court programs does not relieve
3077 a public or private agency of its responsibility for a child or
3078 an adult, but enables these agencies to better meet the child's
3079 or adult's needs through shared responsibility and resources.

3080 (2) Treatment-based mental health court programs may
3081 include pretrial intervention programs as provided in ss.
3082 948.08, 948.16, and 985.345, postadjudicatory treatment-based
3083 mental health court programs as provided in ss. 948.01 and
3084 948.06, and review of the status of compliance or noncompliance
3085 of sentenced defendants through a treatment-based mental health



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3086 court program.

3087 (3) Entry into a pretrial treatment-based mental health
3088 court program is voluntary.

3089 (4) (a) Entry into a postadjudicatory treatment-based mental
3090 health court program as a condition of probation or community
3091 control pursuant to s. 948.01 or s. 948.06 must be based upon
3092 the sentencing court's assessment of the defendant's criminal
3093 history, mental health screening outcome, amenability to the
3094 services of the program, and total sentence points; the
3095 recommendation of the state attorney and the victim, if any; and
3096 the defendant's agreement to enter the program.

3097 (b) A defendant who is sentenced to a postadjudicatory
3098 mental health court program and who, while a mental health court
3099 participant, is the subject of a violation of probation or
3100 community control under s. 948.06 shall have the violation of
3101 probation or community control heard by the judge presiding over
3102 the postadjudicatory mental health court program. After a
3103 hearing on or admission of the violation, the judge shall
3104 dispose of any such violation as he or she deems appropriate if
3105 the resulting sentence or conditions are lawful.

3106 (5) (a) Contingent upon an annual appropriation by the
3107 Legislature, each judicial circuit shall establish, at a
3108 minimum, one coordinator position for the treatment-based mental
3109 health court program within the state courts system to
3110 coordinate the responsibilities of the participating agencies
3111 and service providers. Each coordinator shall provide direct
3112 support to the treatment-based mental health court program by
3113 providing coordination between the multidisciplinary team and
3114 the judiciary, providing case management, monitoring compliance



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3115 of the participants in the treatment-based mental health court
3116 program with court requirements, and providing program
3117 evaluation and accountability.

3118 (b) Each circuit shall report sufficient client-level and
3119 programmatic data to the Office of the State Courts
3120 Administrator annually for purposes of program evaluation.
3121 Client-level data include primary offenses that resulted in the
3122 mental health court referral or sentence, treatment compliance,
3123 completion status and reasons for failure to complete, offenses
3124 committed during treatment and the sanctions imposed, frequency
3125 of court appearances, and units of service. Programmatic data
3126 include referral and screening procedures, eligibility criteria,
3127 type and duration of treatment offered, and residential
3128 treatment resources.

3129 (6) If a county chooses to fund a treatment-based mental
3130 health court program, the county must secure funding from
3131 sources other than the state for those costs not otherwise
3132 assumed by the state pursuant to s. 29.004. However, this
3133 subsection does not preclude counties from using funds for
3134 treatment and other services provided through state executive
3135 branch agencies. Counties may provide, by interlocal agreement,
3136 for the collective funding of these programs.

3137 (7) The chief judge of each judicial circuit may appoint an
3138 advisory committee for the treatment-based mental health court
3139 program. The committee shall be composed of the chief judge, or
3140 his or her designee, who shall serve as chair; the judge of the
3141 treatment-based mental health court program, if not otherwise
3142 designated by the chief judge as his or her designee; the state
3143 attorney, or his or her designee; the public defender, or his or



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3144 her designee; the treatment-based mental health court program
3145 coordinators; community representatives; treatment
3146 representatives; and any other persons that the chair deems
3147 appropriate.

3148 Section 23. Section 394.656, Florida Statutes, is amended
3149 to read:

3150 394.656 Criminal Justice, Mental Health, and Substance
3151 Abuse Reinvestment Grant Program.—

3152 (1) There is created within the Department of Children and
3153 Families the Criminal Justice, Mental Health, and Substance
3154 Abuse Reinvestment Grant Program. The purpose of the program is
3155 to provide funding to counties with which they can plan,
3156 implement, or expand initiatives that increase public safety,
3157 avert increased spending on criminal justice, and improve the
3158 accessibility and effectiveness of treatment services for adults
3159 and juveniles who have a mental illness, substance abuse
3160 disorder, or co-occurring mental health and substance abuse
3161 disorders and who are in, or at risk of entering, the criminal
3162 or juvenile justice systems.

3163 (2) The department shall establish a Criminal Justice,
3164 Mental Health, and Substance Abuse Statewide Grant Policy Review
3165 Committee. The committee shall include:

3166 (a) One representative of the Department of Children and
3167 Families;

3168 (b) One representative of the Department of Corrections;

3169 (c) One representative of the Department of Juvenile
3170 Justice;

3171 (d) One representative of the Department of Elderly
3172 Affairs; ~~and~~



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3173 (e) One representative of the Office of the State Courts
3174 Administrator;
3175 (f) One representative of the Department of Veterans'
3176 Affairs;
3177 (g) One representative of the Florida Sheriffs Association;
3178 (h) One representative of the Florida Police Chiefs
3179 Association;
3180 (i) One representative of the Florida Association of
3181 Counties;
3182 (j) One representative of the Florida Alcohol and Drug
3183 Abuse Association;
3184 (k) One representative of the Florida Association of
3185 Managing Entities;
3186 (l) One representative of the Florida Council for Community
3187 Mental Health; and
3188 (m) One administrator of a state-licensed limited mental
3189 health assisted living facility.
3190 (3) The committee shall serve as the advisory body to
3191 review policy and funding issues that help reduce the impact of
3192 persons with mental illnesses and substance use disorders on
3193 communities, criminal justice agencies, and the court system.
3194 The committee shall advise the department in selecting
3195 priorities for grants and investing awarded grant moneys.
3196 (4) The department shall create a grant review and
3197 selection committee that has experience in substance use and
3198 mental health disorders, community corrections, and law
3199 enforcement. To the extent possible, the ~~members of the~~
3200 committee shall have expertise in ~~grant writing,~~ grant
3201 reviewing, and grant application scoring.



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3202 (5)-~~3~~(a) A county, or not-for-profit community provider,
3203 managing entity, or coordinated care organization designated by
3204 the county planning council or committee, as described in s.
3205 394.657, may apply for a 1-year planning grant or a 3-year
3206 implementation or expansion grant. The purpose of the grants is
3207 to demonstrate that investment in treatment efforts related to
3208 mental illness, substance abuse disorders, or co-occurring
3209 mental health and substance abuse disorders results in a reduced
3210 demand on the resources of the judicial, corrections, juvenile
3211 detention, and health and social services systems.

3212 (b) To be eligible to receive a 1-year planning grant or a
3213 3-year implementation or expansion grant:7

3214 1. A county applicant must have a county planning council
3215 or committee that is in compliance with the membership
3216 requirements set forth in this section.

3217 2. A not-for-profit community provider, managing entity, or
3218 coordinated care organization must be designated by the county
3219 planning council or committee and have written authorization to
3220 submit an application. A not-for-profit community provider,
3221 managing entity, or coordinated care organization must have
3222 written authorization for each application it submits.

3223 (c) The department may award a 3-year implementation or
3224 expansion grant to an applicant who has not received a 1-year
3225 planning grant.

3226 (d) The department may require an applicant to conduct
3227 sequential intercept mapping for a project. For purposes of this
3228 paragraph, the term "sequential intercept mapping" means a
3229 process for reviewing a local community's mental health,
3230 substance abuse, criminal justice, and related systems and



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3231 identifying points of interceptions where interventions may be
3232 made to prevent an individual with a substance use disorder or
3233 mental illness from deeper involvement in the criminal justice
3234 system.

3235 (6)(4) The grant review and selection committee shall
3236 select the grant recipients and notify the department of
3237 Children and Families in writing of the recipients' names of the
3238 applicants who have been selected by the committee to receive a
3239 grant. Contingent upon the availability of funds and upon
3240 notification by the review committee of those applicants
3241 approved to receive planning, implementation, or expansion
3242 grants, the department ~~of Children and Families~~ may transfer
3243 funds appropriated for the grant program to a selected grant
3244 recipient any county awarded a grant.

3245 Section 24. Paragraph (a) of subsection (1) of section
3246 394.875, Florida Statutes, is amended to read:

3247 394.875 Crisis stabilization units, residential treatment
3248 facilities, and residential treatment centers for children and
3249 adolescents; authorized services; license required.-

3250 (1) (a) The purpose of a crisis stabilization unit is to
3251 stabilize and redirect a client to the most appropriate and
3252 least restrictive community setting available, consistent with
3253 the client's needs. Crisis stabilization units may screen,
3254 assess, and admit for stabilization persons who present
3255 themselves to the unit and persons who are brought to the unit
3256 under s. 394.463. Clients may be provided 24-hour observation,
3257 medication prescribed by a physician or psychiatrist, and other
3258 appropriate services. Crisis stabilization units shall provide
3259 services regardless of the client's ability to pay ~~and shall be~~



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3260 ~~limited in size to a maximum of 30 beds.~~

3261 Section 25. Present subsections (10) and (11) of section
3262 394.9082, Florida Statutes, are redesignated as subsections (11)
3263 and (12), respectively, and a new subsection (10) is added to
3264 that section, to read:

3265 394.9082 Behavioral health managing entities.—

3266 (10) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—

3267 The department shall develop, implement, and maintain standards
3268 under which a managing entity shall collect utilization data
3269 from all public receiving facilities situated within its
3270 geographic service area. As used in this subsection, the term
3271 “public receiving facility” means an entity that meets the
3272 licensure requirements of and is designated by the department to
3273 operate as a public receiving facility under s. 394.875 and that
3274 is operating as a licensed crisis stabilization unit.

3275 (a) The department shall develop standards and protocols
3276 for managing entities and public receiving facilities to use in
3277 the collection, storage, transmittal, and analysis of data. The
3278 standards and protocols must allow for compatibility of data and
3279 data transmittal between public receiving facilities, managing
3280 entities, and the department for the implementation and
3281 requirements of this subsection. The department shall require
3282 managing entities contracted under this section to comply with
3283 this subsection by August 1, 2015.

3284 (b) A managing entity shall require a public receiving
3285 facility within its provider network to submit data to the
3286 managing entity, in real time or at least daily, for:

3287 1. All admissions and discharges of clients receiving
3288 public receiving facility services who qualify as indigent, as



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3289 defined in s. 394.4787; and

3290 2. Current active census of total licensed beds, the number
3291 of beds purchased by the department, the number of clients
3292 qualifying as indigent occupying those beds, and the total
3293 number of unoccupied licensed beds regardless of funding.

3294 (c) A managing entity shall require a public receiving
3295 facility within its provider network to submit data, on a
3296 monthly basis, to the managing entity which aggregates the daily
3297 data submitted under paragraph (b). The managing entity shall
3298 reconcile the data in the monthly submission to the data
3299 received by the managing entity under paragraph (b) to check for
3300 consistency. If the monthly aggregate data submitted by a public
3301 receiving facility under this paragraph is inconsistent with the
3302 daily data submitted under paragraph (b), the managing entity
3303 shall consult with the public receiving facility to make
3304 corrections as necessary to ensure accurate data.

3305 (d) A managing entity shall require a public receiving
3306 facility within its provider network to submit data, on an
3307 annual basis, to the managing entity which aggregates the data
3308 submitted and reconciled under paragraph (c). The managing
3309 entity shall reconcile the data in the annual submission to the
3310 data received and reconciled by the managing entity under
3311 paragraph (c) to check for consistency. If the annual aggregate
3312 data submitted by a public receiving facility under this
3313 paragraph is inconsistent with the data received and reconciled
3314 under paragraph (c), the managing entity shall consult with the
3315 public receiving facility to make corrections as necessary to
3316 ensure accurate data.

3317 (e) After ensuring accurate data under paragraphs (c) and



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3318 (d), the managing entity shall submit the data to the department
3319 on a monthly and an annual basis. The department shall create a
3320 statewide database for the data described under paragraph (b)
3321 and submitted under this paragraph for the purpose of analyzing
3322 the payments for and the use of crisis stabilization services
3323 funded under the Baker Act on a statewide basis and on an
3324 individual public receiving facility basis.

3325 (f) The department shall adopt rules to administer this
3326 subsection.

3327 (g) The department shall submit a report by January 31,
3328 2016, and annually thereafter, to the Governor, the President of
3329 the Senate, and the Speaker of the House of Representatives
3330 which provides details on the implementation of this subsection,
3331 including the status of the data collection process and a
3332 detailed analysis of the data collected under this subsection.

3333 Section 26. For the 2015-2016 fiscal year, the sum of
3334 \$175,000 in nonrecurring funds is appropriated from the Alcohol,
3335 Drug Abuse, and Mental Health Trust Fund to the Department of
3336 Children and Families to implement this subsection.

3337 Section 27. The Division of Law Revision and Information is
3338 directed to rename part IV of chapter 765, Florida Statutes, as
3339 "Mental Health and Substance Abuse Advance Directives."

3340 Section 28. Section 765.4015, Florida Statutes, is created
3341 to read:

3342 765.4015 Short title.—Sections 765.4015-765.411 may be
3343 cited as the "Jennifer Act."

3344 Section 29. Section 765.402, Florida Statutes, is created
3345 to read:

3346 765.402 Legislative findings.—



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3347 (1) The Legislature recognizes that an individual with
3348 capacity has the ability to control decisions relating to his or
3349 her own mental health care or substance abuse treatment. The
3350 Legislature finds that:

3351 (a) Substance abuse and some mental illnesses cause
3352 individuals to fluctuate between capacity and incapacity;

3353 (b) During periods when an individual's capacity is
3354 unclear, the individual may be unable to provide informed
3355 consent necessary to access needed treatment;

3356 (c) Early treatment may prevent an individual from becoming
3357 so ill that involuntary treatment is necessary; and

3358 (d) Individuals with substance abuse impairment or mental
3359 illness need an established procedure to express their
3360 instructions and preferences for treatment and provide advance
3361 consent to or refusal of treatment. This procedure should be
3362 less expensive and less restrictive than guardianship.

3363 (2) The Legislature further recognizes that:

3364 (a) A mental health or substance abuse treatment advance
3365 directive must provide the individual with a full range of
3366 choices.

3367 (b) For a mental health or substance abuse directive to be
3368 an effective tool, individuals must be able to choose how they
3369 want their directives to be applied, including the right of
3370 revocation, during periods when they are incompetent to consent
3371 to treatment.

3372 (c) There must be a clear process so that treatment
3373 providers can abide by an individual's treatment choices.

3374 Section 30. Section 765.403, Florida Statutes, is created
3375 to read:



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3376 765.403 Definitions.—As used in this part, the term:
3377 (1) "Adult" means any individual who has attained the age
3378 of majority or is an emancipated minor.
3379 (2) "Capacity" means that an adult has not been found to be
3380 incapacitated pursuant to s. 394.463.
3381 (3) "Health care facility" means a hospital, nursing home,
3382 hospice, home health agency, or health maintenance organization
3383 licensed in this state, or any facility subject to part I of
3384 chapter 394.
3385 (4) "Incapacity" or "incompetent" means an adult who is:
3386 (a) Unable to understand the nature, character, and
3387 anticipated results of proposed treatment or alternatives or the
3388 recognized serious possible risks, complications, and
3389 anticipated benefits of treatments and alternatives, including
3390 nontreatment;
3391 (b) Physically or mentally unable to communicate a willful
3392 and knowing decision about mental health care or substance abuse
3393 treatment;
3394 (c) Unable to communicate his or her understanding or
3395 treatment decisions; or
3396 (d) Determined incompetent pursuant to s. 394.463.
3397 (5) "Informed consent" means consent voluntarily given by a
3398 person after a sufficient explanation and disclosure of the
3399 subject matter involved to enable that person to have a general
3400 understanding of the treatment or procedure and the medically
3401 acceptable alternatives, including the substantial risks and
3402 hazards inherent in the proposed treatment or procedures or
3403 nontreatment, and to make knowing mental health care or
3404 substance abuse treatment decisions without coercion or undue



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3405 influence.

3406 (6) "Interested person" means, for the purposes of this
3407 chapter, any person who may reasonably be expected to be
3408 affected by the outcome of the particular proceeding involved,
3409 including anyone interested in the welfare of an incapacitated
3410 person.

3411 (7) "Mental health or substance abuse treatment advance
3412 directive" means a written document in which the principal makes
3413 a declaration of instructions or preferences or appoints a
3414 surrogate to make decisions on behalf of the principal regarding
3415 the principal's mental health or substance abuse treatment, or
3416 both.

3417 (8) "Mental health professional" means a psychiatrist,
3418 psychologist, psychiatric nurse, or social worker, and such
3419 other mental health professionals licensed pursuant to chapter
3420 458, chapter 459, chapter 464, chapter 490, or chapter 491.

3421 (9) "Principal" means a competent adult who executes a
3422 mental health or substance abuse treatment advance directive and
3423 on whose behalf mental health care or substance abuse treatment
3424 decisions are to be made.

3425 (10) "Surrogate" means any competent adult expressly
3426 designated by a principal to make mental health care or
3427 substance abuse treatment decisions on behalf of the principal
3428 as set forth in the principal's mental health or substance abuse
3429 treatment advance directive or self-binding arrangement as those
3430 terms are defined in this part.

3431 Section 31. Section 765.405, Florida Statutes, is created
3432 to read:

3433 765.405 Mental health or substance abuse treatment advance



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3434 directive; execution; allowable provisions.-

3435 (1) An adult with capacity may execute a mental health or
3436 substance abuse treatment advance directive.

3437 (2) A directive executed in accordance with this section is
3438 presumed to be valid. The inability to honor one or more
3439 provisions of a directive does not affect the validity of the
3440 remaining provisions.

3441 (3) A directive may include any provision relating to
3442 mental health or substance abuse treatment or the care of the
3443 principal. Without limitation, a directive may include:

3444 (a) The principal's preferences and instructions for mental
3445 health or substance abuse treatment.

3446 (b) Consent to specific types of mental health or substance
3447 abuse treatment.

3448 (c) Refusal to consent to specific types of mental health
3449 or substance abuse treatment.

3450 (d) Descriptions of situations that may cause the principal
3451 to experience a mental health or substance abuse crisis.

3452 (e) Suggested alternative responses that may supplement or
3453 be in lieu of direct mental health or substance abuse treatment,
3454 such as treatment approaches from other providers.

3455 (f) The principal's nomination of a guardian, limited
3456 guardian, or guardian advocate as provided chapter 744.

3457 (4) A directive may be combined with or be independent of a
3458 nomination of a guardian, other durable power of attorney, or
3459 other advance directive.

3460 Section 32. Section 765.406, Florida Statutes, is created
3461 to read:

3462 765.406 Execution of a mental health or substance abuse



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3463 advance directive; effective date; expiration.-

3464 (1) A directive must:

3465 (a) Be in writing.

3466 (b) Contain language that clearly indicates that the
3467 principal intends to create a directive.

3468 (c) Be dated and signed by the principal or, if the
3469 principal is unable to sign, at the principal's direction in the
3470 principal's presence.

3471 (d) Be witnessed by two adults, each of whom must declare
3472 that he or she personally knows the principal and was present
3473 when the principal dated and signed the directive, and that the
3474 principal did not appear to be incapacitated or acting under
3475 fraud, undue influence, or duress. The person designated as the
3476 surrogate may not act as a witness to the execution of the
3477 document designating the mental health or substance abuse care
3478 treatment surrogate. At least one person who acts as a witness
3479 must be neither the principal's spouse nor his or her blood
3480 relative.

3481 (2) A directive is valid upon execution, but all or part of
3482 the directive may take effect at a later date as designated by
3483 the principal in the directive.

3484 (3) A directive may:

3485 (a) Be revoked, in whole or in part, pursuant to s.
3486 765.407; or

3487 (b) Expire under its own terms.

3488 (4) A directive does not or may not:

3489 (a) Create an entitlement to mental health, substance
3490 abuse, or medical treatment or supersede a determination of
3491 medical necessity.



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3492 (b) Obligate any health care provider, professional person,
3493 or health care facility to pay the costs associated with the
3494 treatment requested.

3495 (c) Obligate a health care provider, professional person,
3496 or health care facility to be responsible for the nontreatment
3497 or personal care of the principal or the principal's personal
3498 affairs outside the scope of services the facility normally
3499 provides.

3500 (d) Replace or supersede any will or testamentary document
3501 or supersede the provision of intestate succession.

3502 Section 33. Section 765.407, Florida Statutes, is created
3503 to read:

3504 765.407 Revocation; waiver.-

3505 (1) A principal with capacity may, by written statement of
3506 the principal or at the principal's direction in the principal's
3507 presence, revoke a directive in whole or in part.

3508 (2) The principal shall provide a copy of his or her
3509 written statement of revocation to his or her agent, if any, and
3510 to each health care provider, professional person, or health
3511 care facility that received a copy of the directive from the
3512 principal.

3513 (3) The written statement of revocation is effective as to
3514 a health care provider, professional person, or health care
3515 facility upon receipt. The professional person, health care
3516 provider, or health care facility, or persons acting under their
3517 direction, shall make the statement of revocation part of the
3518 principal's medical record.

3519 (4) A directive also may:

3520 (a) Be revoked, in whole or in part, expressly or to the



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3521 extent of any inconsistency, by a subsequent directive; or
3522 (b) Be superseded or revoked by a court order, including
3523 any order entered in a criminal matter. The individual's family,
3524 the health care facility, the attending physician, or any other
3525 interested person who may be directly affected by the
3526 surrogate's decision concerning any health care may seek
3527 expedited judicial intervention pursuant to rule 5.900 of the
3528 Florida Probate Rules, if that person believes:
3529 1. The surrogate's decision is not in accord with the
3530 individual's known desires;
3531 2. The advance directive is ambiguous, or the individual
3532 has changed his or her mind after execution of the advance
3533 directive;
3534 3. The surrogate was improperly designated or appointed, or
3535 the designation of the surrogate is no longer effective or has
3536 been revoked;
3537 4. The surrogate has failed to discharge duties, or
3538 incapacity or illness renders the surrogate incapable of
3539 discharging duties;
3540 5. The surrogate has abused powers; or
3541 6. The individual has sufficient capacity to make his or
3542 her own health care decisions.
3543 (5) A directive that would have otherwise expired but is
3544 effective because the principal is incapacitated remains
3545 effective until the principal is no longer incapacitated unless
3546 the principal elected to be able to revoke while incapacitated
3547 and has revoked the directive.
3548 (6) When a principal with capacity consents to treatment
3549 that differs from, or refuses treatment consented to in, his or



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3550 her directive, the consent or refusal constitutes a waiver of a
3551 particular provision and does not constitute a revocation of the
3552 provision or the directive unless that principal also revokes
3553 the provision or directive.

3554 Section 34. Section 765.410, Florida Statutes, is created
3555 to read:

3556 765.410 Immunity from liability; weight of proof;
3557 presumption.—

3558 (1) A health care facility, provider, or other person who
3559 acts under the direction of a health care facility or provider
3560 is not subject to criminal prosecution or civil liability, and
3561 may not be deemed to have engaged in unprofessional conduct, as
3562 a result of carrying out a mental health care or substance abuse
3563 treatment decision made in accordance with this section. The
3564 surrogate who makes a mental health care or substance abuse
3565 treatment decision on a principal's behalf, pursuant to this
3566 section, is not subject to criminal prosecution or civil
3567 liability for such action.

3568 (2) This section applies unless it is shown by a
3569 preponderance of the evidence that the person authorizing or
3570 carrying out a mental health or substance abuse treatment
3571 decision did not exercise reasonable care or, in good faith,
3572 comply with ss. 765.402-765.411.

3573 Section 35. Section 765.411, Florida Statutes, is created
3574 to read:

3575 765.411 Recognition of mental health and substance abuse
3576 treatment advance directive executed in another state.—A mental
3577 health or substance abuse treatment advance directive executed
3578 in another state in compliance with the law of that state is



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3579 validly executed for the purposes of this chapter.

3580 Section 36. Subsection (5) of section 910.035, Florida
3581 Statutes, is amended to read:

3582 910.035 Transfer from county for plea, and sentence, or
3583 participation in a problem-solving court.-

3584 (5) PROBLEM-SOLVING COURTS.-

3585 (a) As used in this subsection, the term "problem-solving
3586 court" means a drug court pursuant to s. 948.01, s. 948.06, s.
3587 948.08, s. 948.16, or s. 948.20; a military veterans and
3588 servicemembers court pursuant to s. 394.47891, s. 948.08, s.
3589 948.16, or s. 948.21; a mental health court pursuant to s.
3590 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; or a
3591 delinquency pretrial intervention court program pursuant to s.
3592 985.345.

3593 (b) Any person eligible for participation in a problem-
3594 solving drug court shall, upon request by the person or a court,
3595 treatment program pursuant to s. 948.08(6) may be eligible to
3596 have the case transferred to a county other than that in which
3597 the charge arose if the person agrees to the transfer and the
3598 drug court program agrees and if the following conditions are
3599 met:

3600 (a) the authorized representative of the trial drug court
3601 consults program of the county requesting to transfer the case
3602 shall consult with the authorized representative of the problem-
3603 solving drug court program in the county to which transfer is
3604 desired, and both representatives agree to the transfer.

3605 (c) (b) If all parties agree to the transfer as required by
3606 paragraph (b), approval for transfer is received from all
3607 parties, the trial court shall accept a plea of nolo contendere



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3608 ~~and~~ enter a transfer order directing the clerk to transfer the
3609 case to the county that ~~which~~ has accepted the defendant into
3610 its problem-solving drug court program.

3611 (d)1.(e) When transferring a pretrial problem-solving court
3612 case, the transfer order shall include a copy of the probable
3613 cause affidavit; any charging documents in the case; all
3614 reports, witness statements, test results, evidence lists, and
3615 other documents in the case; the defendant's mailing address and
3616 phone number; and the defendant's written consent to abide by
3617 the rules and procedures of the receiving county's problem-
3618 solving drug court program.

3619 2. When transferring a postadjudicatory problem-solving
3620 court case, the transfer order shall include a copy of the
3621 charging documents in the case; the final disposition; all
3622 reports, test results, and other documents in the case; the
3623 defendant's mailing address and telephone number; and the
3624 defendant's written consent to abide by the rules and procedures
3625 of the receiving county's problem-solving court.

3626 (e)(d) After the transfer takes place, the clerk shall set
3627 the matter for a hearing before the problem-solving drug court
3628 to program judge and the court shall ensure the defendant's
3629 entry into the problem-solving drug court program.

3630 (f)(e) Upon successful completion of the problem-solving
3631 drug court program, the jurisdiction to which the case has been
3632 transferred shall dispose of the case ~~pursuant to s. 948.08(6)~~.
3633 If the defendant does not complete the problem-solving drug
3634 court program successfully, the jurisdiction to which the case
3635 has been transferred shall dispose of the case within the
3636 guidelines of the Criminal Punishment Code.



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3637 Section 37. Subsection (5) of section 916.106, Florida
3638 Statutes, is amended to read:

3639 916.106 Definitions.—For the purposes of this chapter, the
3640 term:

3641 (5) "Court" means the circuit court and a county court
3642 ordering the conditional release of a defendant as provided in
3643 s. 916.17.

3644 Section 38. Subsection (1) of section 916.17, Florida
3645 Statutes, is amended to read:

3646 916.17 Conditional release.—

3647 (1) Except for an inmate currently serving a prison
3648 sentence, the committing court may order a conditional release
3649 of any defendant in lieu of an involuntary commitment to a
3650 facility pursuant to s. 916.13 or s. 916.15 based upon an
3651 approved plan for providing appropriate outpatient care and
3652 treatment. A county court may order the conditional release of a
3653 defendant for purposes of the provision of outpatient care and
3654 treatment only. Upon a recommendation that outpatient treatment
3655 of the defendant is appropriate, a written plan for outpatient
3656 treatment, including recommendations from qualified
3657 professionals, must be filed with the court, with copies to all
3658 parties. Such a plan may also be submitted by the defendant and
3659 filed with the court with copies to all parties. The plan shall
3660 include:

3661 (a) Special provisions for residential care or adequate
3662 supervision of the defendant.

3663 (b) Provisions for outpatient mental health services.

3664 (c) If appropriate, recommendations for auxiliary services
3665 such as vocational training, educational services, or special



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3666 medical care.

3667

3668 In its order of conditional release, the court shall
3669 specify the conditions of release based upon the release plan
3670 and shall direct the appropriate agencies or persons to submit
3671 periodic reports to the court regarding the defendant's
3672 compliance with the conditions of the release and progress in
3673 treatment, with copies to all parties.

3674 Section 39. Section 916.185, Florida Statutes, is created
3675 to read:

3676 916.185 Forensic Hospital Diversion Pilot Program.-

3677 (1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds
3678 that many jail inmates who have serious mental illnesses and who
3679 are committed to state forensic mental health treatment
3680 facilities for restoration of competency to proceed could be
3681 served more effectively and at less cost in community-based
3682 alternative programs. The Legislature further finds that many
3683 individuals who have serious mental illnesses and who have been
3684 discharged from state forensic mental health treatment
3685 facilities could avoid recidivism in the criminal justice and
3686 forensic mental health systems if they received specialized
3687 treatment in the community. Therefore, it is the intent of the
3688 Legislature to create the Forensic Hospital Diversion Pilot
3689 Program to serve individuals who have mental illnesses or co-
3690 occurring mental illnesses and substance use disorders and who
3691 are admitted to or are at risk of entering state forensic mental
3692 health treatment facilities, prisons, jails, or state civil
3693 mental health treatment facilities.

3694 (2) DEFINITIONS.-As used in this section, the term:



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3695 (a) "Best practices" means treatment services that
3696 incorporate the most effective and acceptable interventions
3697 available in the care and treatment of individuals who are
3698 diagnosed as having mental illnesses or co-occurring mental
3699 illnesses and substance use disorders.

3700 (b) "Community forensic system" means the community mental
3701 health and substance use forensic treatment system, including
3702 the comprehensive set of services and supports provided to
3703 individuals involved in or at risk of becoming involved in the
3704 criminal justice system.

3705 (c) "Evidence-based practices" means interventions and
3706 strategies that, based on the best available empirical research,
3707 demonstrate effective and efficient outcomes in the care and
3708 treatment of individuals who are diagnosed as having mental
3709 illnesses or co-occurring mental illnesses and substance use
3710 disorders.

3711 (3) CREATION.—There is created a Forensic Hospital
3712 Diversion Pilot Program to provide, when appropriate,
3713 competency-restoration and community-reintegration services in
3714 locked residential treatment facilities, based on considerations
3715 of public safety, the needs of the individual, and available
3716 resources.

3717 (a) The department shall implement a Forensic Hospital
3718 Diversion Pilot Program in Alachua, Broward, Escambia,
3719 Hillsborough, and Miami-Dade Counties, in conjunction with the
3720 Eighth Judicial Circuit, the Seventeenth Judicial Circuit, the
3721 First Judicial Circuit, the Thirteenth Judicial Circuit, and the
3722 Eleventh Judicial Circuit, respectively, which shall be modeled
3723 after the Miami-Dade Forensic Alternative Center, taking into



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3724 account local needs and subject to the availability of local
3725 resources.

3726 (b) In creating and implementing the program, the
3727 department shall include a comprehensive continuum of care and
3728 services which uses evidence-based practices and best practices
3729 to treat individuals who have mental health and co-occurring
3730 substance use disorders.

3731 (c) The department and the respective judicial circuits
3732 shall implement this section within available resources. State
3733 funding may be made available through a specific appropriation.

3734 (4) ELIGIBILITY.—Participation in the Forensic Hospital
3735 Diversion Pilot Program is limited to individuals who:

3736 (a) Are 18 years of age or older;

3737 (b) Are charged with a felony of the second degree or a
3738 felony of the third degree;

3739 (c) Do not have a significant history of violent criminal
3740 offenses;

3741 (d) Have been adjudicated incompetent to proceed to trial
3742 or not guilty by reason of insanity under this part;

3743 (e) Meet public safety and treatment criteria established
3744 by the department for placement in a community setting; and

3745 (f) Would be admitted to a state mental health treatment
3746 facility if not for the availability of the Forensic Hospital
3747 Diversion Pilot Program.

3748 (5) TRAINING.—The Legislature encourages the Florida
3749 Supreme Court, in consultation and cooperation with the Task
3750 Force on Substance Abuse and Mental Health Issues in the Courts,
3751 to develop educational training on the community forensic system
3752 for judges in the pilot program areas.



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3753 (6) RULEMAKING.—The department may adopt rules to
3754 administer this section.

3755 (7) REPORT.—The Office of Program Policy Analysis and
3756 Government Accountability shall review and evaluate the Forensic
3757 Hospital Diversion Pilot Program and submit a report to the
3758 Governor, the President of the Senate, and the Speaker of the
3759 House of Representatives by December 31, 2016. The report shall
3760 examine the efficiency and cost-effectiveness of providing
3761 forensic mental health services in secure, outpatient,
3762 community-based settings. In addition, the report shall examine
3763 the impact of the Forensic Hospital Diversion Pilot Program on
3764 public health and safety.

3765 Section 40. Section 944.805, Florida Statutes, is created
3766 to read:

3767 944.805 Nonviolent offender reentry program.—

3768 (1) As used in this section, the term:

3769 (a) "Department" means the Department of Corrections.

3770 (b) "Nonviolent offender" means an offender whose primary
3771 offense is a felony of the third degree, who is not the subject
3772 of a domestic violence injunction currently in force, and who
3773 has never been convicted of:

3774 1. A forcible felony as defined in s. 776.08;

3775 2. An offense specified in s. 775.082(9)(a)1.r., regardless
3776 of prior incarceration or release;

3777 3. An offense described in chapter 847;

3778 4. An offense under chapter 827;

3779 5. Any offense specified in s. 784.07, s. 784.074, s.
3780 784.075, s. 784.076, s. 784.08, s. 784.083, or s. 784.085;

3781 6. Any offense involving the possession or use of a



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3782 firearm;

3783 7. A capital felony or a felony of the first or second
3784 degree;

3785 8. Any offense that requires a person to register as a
3786 sexual offender pursuant to s. 943.0435.

3787 (2) (a) The department shall develop and administer a
3788 reentry program for nonviolent offenders. The reentry program
3789 must include prison-based substance abuse treatment, general
3790 education development and adult basic education courses,
3791 vocational training, training in decisionmaking and personal
3792 development, and other rehabilitation programs.

3793 (b) The reentry program is intended to divert nonviolent
3794 offenders from long periods of incarceration when a reduced
3795 period of incarceration supplemented by participation in
3796 intensive substance abuse treatment and rehabilitative
3797 programming could produce the same deterrent effect, protect the
3798 public, rehabilitate the offender, and reduce recidivism.

3799 (c) The nonviolent offender must serve at least 6 months in
3800 the reentry program. The offender may not count any portion of
3801 his or her sentence served before placement in the reentry
3802 program as progress toward program completion.

3803 (d) A reentry program may be operated in a secure area in
3804 or adjacent to a correctional institution.

3805 (3) The department shall screen offenders committed to the
3806 department for eligibility to participate in the reentry program
3807 using the criteria in this section. To be eligible, an offender
3808 must be a nonviolent offender, must have served at least one-
3809 half of his or her original sentence, and must have been
3810 identified as needing substance abuse treatment.



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3811 (4) In addition, the department must consider the following
3812 factors when selecting participants for the reentry program:

3813 (a) The offender's history of disciplinary reports.

3814 (b) The offender's criminal history.

3815 (c) The severity of the offender's addiction.

3816 (d) The offender's history of criminal behavior related to
3817 substance abuse.

3818 (e) Whether the offender has participated or requested to
3819 participate in any general educational development certificate
3820 program or other educational, technical, work, vocational, or
3821 self-rehabilitation program.

3822 (f) The results of any risk assessment of the offender.

3823 (g) The outcome of all past participation of the offender
3824 in substance abuse treatment programs.

3825 (h) The possible rehabilitative benefits that substance
3826 abuse treatment, educational programming, vocational training,
3827 and other rehabilitative programming might have on the offender.

3828 (i) The likelihood that the offender's participation in the
3829 program will produce the same deterrent effect, protect the
3830 public, save taxpayer dollars, and prevent or delay recidivism
3831 to an equal or greater extent than completion of the sentence
3832 previously imposed.

3833 (5) (a) If an offender volunteers to participate in the
3834 reentry program, meets the eligibility criteria, and is selected
3835 by the department based on the considerations in subsection (4)
3836 and if space is available in the reentry program, the department
3837 may request the sentencing court to approve the offender's
3838 participation in the reentry program. The request must be made
3839 in writing, must include a brief summation of the department's



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3840 evaluation under subsection (4), and must identify the documents
3841 or other information upon which the evaluation is based. The
3842 request and all accompanying documents may be delivered to the
3843 sentencing court electronically.

3844 (b)1. The department shall notify the state attorney that
3845 the offender is being considered for placement in the reentry
3846 program. The notice must include a copy of all documents
3847 provided with the request to the court. The notice and all
3848 accompanying documents may be delivered to the state attorney
3849 electronically and may take the form of a copy of an electronic
3850 delivery made to the sentencing court.

3851 2. The notice must also state that the state attorney may
3852 notify the sentencing court in writing of any objection he or
3853 she may have to placement of the nonviolent offender in the
3854 reentry program. Such notification must be made within 15 days
3855 after receipt of the notice by the state attorney from the
3856 department. Regardless of whether an objection is raised, the
3857 state attorney may provide the sentencing court with any
3858 information supplemental or contrary to the information provided
3859 by the department which may assist the court in its
3860 determination.

3861 (c) In determining whether to approve a nonviolent offender
3862 for participation in the reentry program, the sentencing court
3863 may consider any facts that the court considers relevant,
3864 including, but not limited to, the criteria listed in subsection
3865 (4); the original sentencing report and any evidence admitted in
3866 a previous sentencing proceeding; the offender's record of
3867 arrests without conviction for crimes; any other evidence of
3868 allegations of unlawful conduct or the use of violence by the



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3869 offender; the offender's family ties, length of residence in the
3870 community, employment history, and mental condition; the
3871 likelihood that participation in the program will produce the
3872 same deterrent effect, rehabilitate the offender, and prevent or
3873 delay recidivism to an equal or greater extent than completion
3874 of the sentence previously imposed; and the likelihood that the
3875 offender will engage again in criminal conduct.

3876 (d) The sentencing court shall notify the department in
3877 writing of the court's decision to approve or disapprove the
3878 requested placement of the nonviolent offender no later than 30
3879 days after the court receives the department's request to place
3880 the offender in the reentry program. If the court approves the
3881 placement, the notification must list the factors upon which the
3882 court relied in making its determination.

3883 (6) After the nonviolent offender is admitted to the
3884 reentry program, he or she shall undergo a complete substance
3885 abuse assessment to determine his or her substance abuse
3886 treatment needs. The offender shall also receive an educational
3887 assessment, which must be accomplished using the Test of Adult
3888 Basic Education or any other testing instrument approved by the
3889 Department of Education. Each offender who has not obtained a
3890 high school diploma shall be enrolled in an adult education
3891 program designed to aid the offender in improving his or her
3892 academic skills and earning a high school diploma. Additional
3893 assessments of the offender's vocational skills and future
3894 career education shall be provided to the offender as needed. A
3895 periodic reevaluation shall be made to assess the progress of
3896 each offender.

3897 (7) (a) If a nonviolent offender in the reentry program



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3898 becomes unmanageable, the department may revoke the offender's
3899 gain-time and place the offender in disciplinary confinement in
3900 accordance with department rule. Except as provided in paragraph
3901 (b), the offender shall be readmitted to the reentry program
3902 after completing the ordered discipline. Any period during which
3903 the offender cannot participate in the reentry program must be
3904 excluded from the specified time requirements in the reentry
3905 program.

3906 (b) The department may terminate an offender from the
3907 reentry program if:

3908 1. The offender commits or threatens to commit a violent
3909 act;

3910 2. The department determines that the offender cannot
3911 participate in the reentry program because of the offender's
3912 medical condition;

3913 3. The offender's sentence is modified or expires;

3914 4. The department reassigns the offender's classification
3915 status; or

3916 5. The department determines that removing the offender
3917 from the reentry program is in the best interest of the offender
3918 or the security of the reentry program facility.

3919 (8) (a) The department shall submit a report to the
3920 sentencing court at least 30 days before the nonviolent offender
3921 is scheduled to complete the reentry program. The report must
3922 describe the offender's performance in the reentry program and
3923 certify whether the performance is satisfactory. The court may
3924 schedule a hearing to consider any modification to the imposed
3925 sentence. Notwithstanding the eligibility criteria contained in
3926 s. 948.20, if the offender's performance is satisfactory to the



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3927 department and the court, the court shall issue an order
3928 modifying the sentence imposed and placing the offender on drug
3929 offender probation, as described in s. 948.20(2), subject to the
3930 department's certification of the offender's successful
3931 completion of the remainder of the reentry program. The term of
3932 drug offender probation must not be less than the remaining time
3933 the offender would have served in prison had he or she not
3934 participated in the program. A condition of drug offender
3935 probation may include electronic monitoring or placement in a
3936 community residential or nonresidential licensed substance abuse
3937 treatment facility under the jurisdiction of the department or
3938 the Department of Children and Families or any public or private
3939 entity providing such services. The order must include findings
3940 that the offender's performance is satisfactory, that the
3941 requirements for resentencing under this section are satisfied,
3942 and that public safety will not be compromised. If the
3943 nonviolent offender violates the conditions of drug offender
3944 probation, the court may revoke probation and impose any
3945 sentence that it might have originally imposed. An offender may
3946 not be released from the custody of the department under this
3947 section except pursuant to a judicial order modifying his or her
3948 sentence.

3949 (b) If an offender released pursuant to paragraph (a)
3950 intends to reside in a county that has established a
3951 postadjudicatory drug court program as described in s. 397.334,
3952 the sentencing court may require the offender to successfully
3953 complete the postadjudicatory drug court program as a condition
3954 of drug offender probation. The original sentencing court shall
3955 relinquish jurisdiction of the offender's case to the



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3956 postadjudicatory drug court program until the offender is no
3957 longer active in the program, the case is returned to the
3958 sentencing court due to the offender's termination from the
3959 program for failure to comply with the terms of the program, or
3960 the offender's sentence is completed. An offender who is
3961 transferred to a postadjudicatory drug court program shall
3962 comply with all conditions and orders of the program.

3963 (9) The department shall implement the reentry program to
3964 the fullest extent feasible within available resources.

3965 (10) The department may enter into performance-based
3966 contracts with qualified individuals, agencies, or corporations
3967 for the provision of any or all of the services for the reentry
3968 program. However, an offender may not be released from the
3969 custody of the department under this section except pursuant to
3970 a judicial order modifying a sentence.

3971 (11) A nonviolent offender in the reentry program is
3972 subject to rules of conduct established by the department and
3973 may have sanctions imposed, including loss of privileges,
3974 restrictions, disciplinary confinement, alteration of release
3975 plans, or other program modifications in keeping with the nature
3976 and gravity of the program violation. Administrative or
3977 protective confinement, as necessary, may be imposed.

3978 (12) This section does not create or confer any right to
3979 any offender to placement in the reentry program or any right to
3980 placement or early release under supervision of any type. An
3981 inmate does not have a cause of action under this section
3982 against the department, a court, or the state attorney related
3983 to the reentry program.

3984 (13) The department may establish a system of incentives



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3985 within the reentry program which the department may use to
3986 promote participation in rehabilitative programs and the orderly
3987 operation of institutions and facilities.

3988 (14) The department shall develop a system for tracking
3989 recidivism, including, but not limited to, rearrests and
3990 recommitment of nonviolent offenders who successfully complete
3991 the reentry program, and shall report the recidivism rate in the
3992 annual report required under this section.

3993 (15) The department shall submit an annual report to the
3994 Governor, the President of the Senate, and the Speaker of the
3995 House of Representatives detailing the extent of implementation
3996 of the reentry program and the number of participants who are
3997 selected by the department, the number of participants who are
3998 approved by the court, and the number of participants who
3999 successfully complete the program. The report must include a
4000 reasonable estimate or description of the additional public
4001 costs incurred and any public funds saved with respect to each
4002 participant, a brief description of each sentence modification,
4003 and a brief description of the subsequent criminal history, if
4004 any, of each participant following any modification of sentence
4005 under this section. The report must also include future goals
4006 and any recommendations that the department has for future
4007 legislative action.

4008 (16) The department shall adopt rules as necessary to
4009 administer the reentry program.

4010 (17) Nothing in this section is severable from the
4011 remaining provisions of this section. If any subsection of this
4012 section is determined by any state or federal court to be not
4013 fully enforceable, this section shall stand repealed in its



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4014 entirety.

4015 Section 41. Subsection (8) is added to section 948.01,
4016 Florida Statutes, to read:

4017 948.01 When court may place defendant on probation or into
4018 community control.-

4019 (8) (a) Notwithstanding s. 921.0024 and effective for
4020 offenses committed on or after July 1, 2015, the sentencing
4021 court may place the defendant into a postadjudicatory treatment-
4022 based mental health court program if the offense is a nonviolent
4023 felony, the defendant is amenable to mental health treatment,
4024 including taking prescribed medications, and the defendant is
4025 otherwise qualified under s. 394.47892(4). The satisfactory
4026 completion of the program must be a condition of the defendant's
4027 probation or community control. As used in this subsection, the
4028 term "nonviolent felony" means a third degree felony violation
4029 under chapter 810 or any other felony offense that is not a
4030 forcible felony as defined in s. 776.08.

4031 (b) The defendant must be fully advised of the purpose of
4032 the program and the defendant must agree to enter the program.
4033 The original sentencing court shall relinquish jurisdiction of
4034 the defendant's case to the postadjudicatory treatment-based
4035 mental health court program until the defendant is no longer
4036 active in the program, the case is returned to the sentencing
4037 court due to the defendant's termination from the program for
4038 failure to comply with the terms thereof, or the defendant's
4039 sentence is completed.

4040 (c) The Department of Corrections may establish designated
4041 mental health probation officers to support individuals under
4042 supervision of the mental health court.



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4043 Section 42. Paragraph (j) is added to subsection (2) of
4044 section 948.06, Florida Statutes, to read:

4045 948.06 Violation of probation or community control;
4046 revocation; modification; continuance; failure to pay
4047 restitution or cost of supervision.—

4048 (2)

4049 (j)1. Notwithstanding s. 921.0024 and effective for
4050 offenses committed on or after July 1, 2015, the court may order
4051 the offender to successfully complete a postadjudicatory
4052 treatment-based mental health court program under s. 394.47892
4053 or a military veterans and servicemembers court program under s.
4054 394.47891 if:

4055 a. The court finds or the offender admits that the offender
4056 has violated his or her community control or probation.

4057 b. The underlying offense is a nonviolent felony. As used
4058 in this subsection, the term "nonviolent felony" means a third
4059 degree felony violation under chapter 810 or any other felony
4060 offense that is not a forcible felony as defined in s. 776.08.

4061 c. The court determines that the offender is amenable to
4062 the services of a postadjudicatory treatment-based mental health
4063 court program, including taking prescribed medications, or a
4064 military veterans and servicemembers court program.

4065 d. The court explains the purpose of the program to the
4066 offender and the offender agrees to participate.

4067 e. The offender is otherwise qualified to participate in a
4068 postadjudicatory treatment-based mental health court program
4069 under s. 394.47892(4) or a military veterans and servicemembers
4070 court program under s. 394.47891.

4071 2. After the court orders the modification of community



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4072 control or probation, the original sentencing court shall
4073 relinquish jurisdiction of the offender's case to the
4074 postadjudicatory treatment-based mental health court program
4075 until the offender is no longer active in the program, the case
4076 is returned to the sentencing court due to the offender's
4077 termination from the program for failure to comply with the
4078 terms thereof, or the offender's sentence is completed.

4079 Section 43. Paragraph (a) of subsection (7) of section
4080 948.08, Florida Statutes, is amended, present subsection (8) of
4081 that section is redesignated as subsection (9), and a new
4082 subsection (8) is added to that section, to read:

4083 948.08 Pretrial intervention program.—

4084 (7) (a) Notwithstanding any provision of this section, a
4085 person who is charged with a felony, other than a felony listed
4086 in s. 948.06(8)(c), and identified as a veteran, as defined in
4087 s. 1.01, including veterans who were discharged or released
4088 under a general discharge, or servicemember, as defined in s.
4089 250.01, who suffers from a military service-related mental
4090 illness, traumatic brain injury, substance abuse disorder, or
4091 psychological problem, is eligible for voluntary admission into
4092 a pretrial veterans' treatment intervention program approved by
4093 the chief judge of the circuit, upon motion of either party or
4094 the court's own motion, except:

4095 1. If a defendant was previously offered admission to a
4096 pretrial veterans' treatment intervention program at any time
4097 before trial and the defendant rejected that offer on the
4098 record, the court may deny the defendant's admission to such a
4099 program.

4100 2. If a defendant previously entered a court-ordered



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4101 veterans' treatment program, the court may deny the defendant's
4102 admission into the pretrial veterans' treatment program.

4103 (8) (a) Notwithstanding any provision of this section, a
4104 defendant identified as having a mental illness who has not been
4105 convicted of a felony and is charged with a nonviolent felony
4106 that includes a third degree felony violation of chapter 810 or
4107 any other felony offense that is not a forcible felony as
4108 defined in s. 776.08 is eligible for voluntary admission into a
4109 pretrial mental health court program, established pursuant to s.
4110 394.47892 and approved by the chief judge of the circuit, for a
4111 period to be determined by the risk and needs assessment of the
4112 defendant, upon motion of either party or the court's own
4113 motion.

4114 (b) At the end of the pretrial intervention period, the
4115 court shall consider the recommendation of the treatment
4116 provider and the recommendation of the state attorney as to
4117 disposition of the pending charges. The court shall determine,
4118 by written finding, whether the defendant has successfully
4119 completed the pretrial intervention program. If the court finds
4120 that the defendant has not successfully completed the pretrial
4121 intervention program, the court may order the person to continue
4122 in education and treatment, which may include a mental health
4123 program offered by a licensed service provider, as defined in s.
4124 394.455, or order that the charges revert to normal channels for
4125 prosecution. The court shall dismiss the charges upon a finding
4126 that the defendant has successfully completed the pretrial
4127 intervention program.

4128 Section 44. Paragraph (a) of subsection (2) and present
4129 subsection (4) of section 948.16, Florida Statutes, are amended,



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4130 present subsections (3) and (4) of that section are redesignated
4131 as subsections (4) and (5), respectively, and a new subsection
4132 (3) is added to that section, to read:

4133 948.16 Misdemeanor pretrial substance abuse education and
4134 treatment intervention program; misdemeanor pretrial veterans'
4135 treatment intervention program; misdemeanor pretrial mental
4136 health court program.-

4137 (2) (a) A veteran, as defined in s. 1.01, including veterans
4138 who were discharged or released under a general discharge, or
4139 servicemember, as defined in s. 250.01, who suffers from a
4140 military service-related mental illness, traumatic brain injury,
4141 substance abuse disorder, or psychological problem, and who is
4142 charged with a misdemeanor is eligible for voluntary admission
4143 into a misdemeanor pretrial veterans' treatment intervention
4144 program approved by the chief judge of the circuit, for a period
4145 based on the program's requirements and the treatment plan for
4146 the offender, upon motion of either party or the court's own
4147 motion. However, the court may deny the defendant admission into
4148 a misdemeanor pretrial veterans' treatment intervention program
4149 if the defendant has previously entered a court-ordered
4150 veterans' treatment program.

4151 (3) A defendant who is charged with a misdemeanor and
4152 identified as having a mental illness is eligible for voluntary
4153 admission into a misdemeanor pretrial mental health court
4154 program established pursuant to s. 394.47892, approved by the
4155 chief judge of the circuit, for a period to be determined by the
4156 risk and needs assessment of the defendant, upon motion of
4157 either party or the court's own motion.

4158 (5)-(4) Any public or private entity providing a pretrial



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4159 substance abuse education and treatment program or mental health
4160 program under this section shall contract with the county or
4161 appropriate governmental entity. The terms of the contract shall
4162 include, but not be limited to, the requirements established for
4163 private entities under s. 948.15(3). This requirement does not
4164 apply to services provided by the Department of Veterans'
4165 Affairs or the United States Department of Veterans Affairs.

4166 Section 45. Section 948.21, Florida Statutes, is amended to
4167 read:

4168 948.21 Condition of probation or community control;
4169 military servicemembers and veterans.-

4170 (1) Effective for a probationer or community controllee
4171 whose crime was committed on or after July 1, 2012, and who is a
4172 veteran, as defined in s. 1.01, or servicemember, as defined in
4173 s. 250.01, who suffers from a military service-related mental
4174 illness, traumatic brain injury, substance abuse disorder, or
4175 psychological problem, the court may, in addition to any other
4176 conditions imposed, impose a condition requiring the probationer
4177 or community controllee to participate in a treatment program
4178 capable of treating the probationer or community controllee's
4179 mental illness, traumatic brain injury, substance abuse
4180 disorder, or psychological problem.

4181 (2) Effective for a probationer or community controllee
4182 whose crime is committed on or after July 1, 2015, and who is a
4183 veteran, as defined in s. 1.01, including veterans who were
4184 discharged or released under a general discharge, or
4185 servicemember, as defined in s. 250.01, who suffers from a
4186 military service-related mental illness, traumatic brain injury,
4187 substance abuse disorder, or psychological problem, the court



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4188 may, in addition to any other conditions imposed, impose a
4189 condition requiring the probationer or community controllee to
4190 participate in a treatment program capable of treating the
4191 probationer or community controllee's mental illness, traumatic
4192 brain injury, substance abuse disorder, or psychological
4193 problem.

4194 (3) The court shall give preference to treatment programs
4195 for which the probationer or community controllee is eligible
4196 through the United States Department of Veterans Affairs or the
4197 Florida Department of Veterans' Affairs. The Department of
4198 Corrections is not required to spend state funds to implement
4199 this section.

4200 Section 46. Present subsection (4) of section 985.345,
4201 Florida Statutes, is redesignated as subsection (7) and amended,
4202 and new subsections (4), (5), and (6) are added to that section,
4203 to read:

4204 985.345 Delinquency pretrial intervention program.—

4205 (4) Notwithstanding any other provision of law, a child is
4206 eligible for voluntary admission into a delinquency pretrial
4207 mental health court program, established pursuant to s.
4208 394.47892, approved by the chief judge of the circuit, for a
4209 period based on the program requirements and the treatment
4210 services that are suitable for the child, upon motion of either
4211 party or the court's own motion if the child is charged with:

4212 (a) A misdemeanor; or

4213 (b) A nonviolent felony; for purposes of this subsection,
4214 the term "nonviolent felony" means a third degree felony
4215 violation of chapter 810 or any other felony offense that is not
4216 a forcible felony as defined in s. 776.08, and the child is



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4217 identified as having a mental illness and has not been
4218 previously adjudicated for a felony.

4219 (5) At the end of the delinquency pretrial intervention
4220 period, the court shall consider the recommendation of the state
4221 attorney and the program administrator as to disposition of the
4222 pending charges. The court shall determine, by written finding,
4223 whether the child has successfully completed the delinquency
4224 pretrial intervention program. If the court finds that the child
4225 has not successfully completed the delinquency pretrial
4226 intervention program, the court may order the child to continue
4227 in an education, treatment, or monitoring program if resources
4228 and funding are available or order that the charges revert to
4229 normal channels for prosecution. The court may dismiss the
4230 charges upon a finding that the child has successfully completed
4231 the delinquency pretrial intervention program.

4232 (6) A child whose charges are dismissed after successful
4233 completion of the mental health court program, if otherwise
4234 eligible, may have his or her arrest record and plea of nolo
4235 contendere to the dismissed charges expunged under s. 943.0585.

4236 (7)~~(4)~~ Any entity, whether public or private, providing
4237 pretrial substance abuse education, treatment intervention, and
4238 a urine monitoring program, or a mental health program under
4239 this section must contract with the county or appropriate
4240 governmental entity, and the terms of the contract must include,
4241 but need not be limited to, the requirements established for
4242 private entities under s. 948.15(3). It is the intent of the
4243 Legislature that public or private entities providing substance
4244 abuse education and treatment intervention programs involve the
4245 active participation of parents, schools, churches, businesses,



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4246 law enforcement agencies, and the department or its contract
4247 providers.

4248 Section 47. Paragraph (1) is added to subsection (3) of
4249 section 1002.20, Florida Statutes, to read:

4250 1002.20 K-12 student and parent rights.—Parents of public
4251 school students must receive accurate and timely information
4252 regarding their child's academic progress and must be informed
4253 of ways they can help their child to succeed in school. K-12
4254 students and their parents are afforded numerous statutory
4255 rights including, but not limited to, the following:

4256 (3) HEALTH ISSUES.—

4257 (1) Notification of involuntary examinations.—The public
4258 school principal or the principal's designee shall immediately
4259 notify the parent of a student who is removed from school,
4260 school transportation, or a school-sponsored activity and taken
4261 to a receiving facility for an involuntary examination pursuant
4262 to s. 394.463. The principal or the principal's designee may
4263 delay notification for no more than 24 hours after the student
4264 is removed from school if the principal or designee deems the
4265 delay to be in the student's best interest and if a report has
4266 been submitted to the central abuse hotline, pursuant to s.
4267 39.201, based upon knowledge or suspicion of abuse, abandonment,
4268 or neglect. Each district school board shall develop a policy
4269 and procedures for notification under this paragraph.

4270 Section 48. Paragraph (q) is added to subsection (9) of
4271 section 1002.33, Florida Statutes, to read:

4272 1002.33 Charter schools.—

4273 (9) CHARTER SCHOOL REQUIREMENTS.—

4274 (q) The charter school principal or the principal's



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4275 designee shall immediately notify the parent of a student who is
4276 removed from school, school transportation, or a school-
4277 sponsored activity and taken to a receiving facility for an
4278 involuntary examination pursuant to s. 394.463. The principal or
4279 the principal's designee may delay notification for no more than
4280 24 hours after the student is removed from school if the
4281 principal or designee deems the delay to be in the student's
4282 best interest and if a report has been submitted to the central
4283 abuse hotline, pursuant to s. 39.201, based upon knowledge or
4284 suspicion of abuse, abandonment, or neglect. Each charter school
4285 governing board shall develop a policy and procedures for
4286 notification under this paragraph.

4287 Section 49. Effective July 1, 2016, paragraph (a) of
4288 subsection (3) of section 39.407, Florida Statutes, is amended
4289 to read:

4290 39.407 Medical, psychiatric, and psychological examination
4291 and treatment of child; physical, mental, or substance abuse
4292 examination of person with or requesting child custody.—

4293 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
4294 or paragraph (e), before the department provides psychotropic
4295 medications to a child in its custody, the prescribing physician
4296 shall attempt to obtain express and informed consent, as defined
4297 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.
4298 394.459(4) (a) ~~s. 394.459(3) (a)~~, from the child's parent or legal
4299 guardian. The department must take steps necessary to facilitate
4300 the inclusion of the parent in the child's consultation with the
4301 physician. However, if the parental rights of the parent have
4302 been terminated, the parent's location or identity is unknown or
4303 cannot reasonably be ascertained, or the parent declines to give



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4304 express and informed consent, the department may, after
4305 consultation with the prescribing physician, seek court
4306 authorization to provide the psychotropic medications to the
4307 child. Unless parental rights have been terminated and if it is
4308 possible to do so, the department shall continue to involve the
4309 parent in the decisionmaking process regarding the provision of
4310 psychotropic medications. If, at any time, a parent whose
4311 parental rights have not been terminated provides express and
4312 informed consent to the provision of a psychotropic medication,
4313 the requirements of this section that the department seek court
4314 authorization do not apply to that medication until such time as
4315 the parent no longer consents.

4316 2. Any time the department seeks a medical evaluation to
4317 determine the need to initiate or continue a psychotropic
4318 medication for a child, the department must provide to the
4319 evaluating physician all pertinent medical information known to
4320 the department concerning that child.

4321 Section 50. Effective July 1, 2016, subsection (2) of
4322 section 394.4612, Florida Statutes, is amended to read:

4323 394.4612 Integrated adult mental health crisis
4324 stabilization and addictions receiving facilities.—

4325 (2) An integrated mental health crisis stabilization unit
4326 and addictions receiving facility may provide services under
4327 this section to adults who are 18 years of age or older and who
4328 fall into one ~~or more~~ of the following categories:

4329 (a) An adult meeting the requirements for voluntary
4330 admission for mental health treatment under s. 394.4625.

4331 (b) An adult meeting the criteria for involuntary
4332 examination for mental illness under s. 394.463.



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4333 (c) An adult qualifying for voluntary admission for
4334 substance abuse treatment under s. 394.4625 ~~s. 397.601~~.

4335 (d) An adult meeting the criteria for involuntary admission
4336 for substance abuse impairment under s. 394.463 ~~s. 397.675~~.

4337 Section 51. Effective July 1, 2016, paragraphs (a) and (c)
4338 of subsection (3) of section 394.495, Florida Statutes, are
4339 amended to read:

4340 394.495 Child and adolescent mental health system of care;
4341 programs and services.—

4342 (3) Assessments must be performed by:

4343 (a) A professional as defined in s. 394.455(6), (31), (34),
4344 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~;

4345 (c) A person who is under the direct supervision of a
4346 professional as defined in s. 394.455(6), (31), (34), (35), or
4347 (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
4348 licensed under chapter 491.

4349

4350 The department shall adopt by rule statewide standards for
4351 mental health assessments, which must be based on current
4352 relevant professional and accreditation standards.

4353 Section 52. Effective July 1, 2016, subsection (6) of
4354 section 394.496, Florida Statutes, is amended to read:

4355 394.496 Service planning.—

4356 (6) A professional as defined in s. 394.455(6), (31), (34),
4357 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a

4358 professional licensed under chapter 491 must be included among
4359 those persons developing the services plan.

4360 Section 53. Effective July 1, 2016, subsection (2) of
4361 section 394.499, Florida Statutes, is amended to read:



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4362 394.499 Integrated children's crisis stabilization
4363 unit/juvenile addictions receiving facility services.—
4364 (2) Children eligible to receive integrated children's
4365 crisis stabilization unit/juvenile addictions receiving facility
4366 services include:
4367 (a) A person under 18 years of age for whom voluntary
4368 application is made by his or her guardian, if such person is
4369 found to show evidence of mental illness and to be suitable for
4370 treatment pursuant to s. 394.4625. A person under 18 years of
4371 age may be admitted for integrated facility services only after
4372 a hearing to verify that the consent to admission is voluntary.
4373 (b) A person under 18 years of age who may be taken to a
4374 receiving facility for involuntary examination, if there is
4375 reason to believe that he or she is mentally ill and because of
4376 his or her mental illness, pursuant to s. 394.463:
4377 1. Has refused voluntary examination after conscientious
4378 explanation and disclosure of the purpose of the examination; or
4379 2. Is unable to determine for himself or herself whether
4380 examination is necessary; and
4381 a. Without care or treatment is likely to suffer from
4382 neglect or refuse to care for himself or herself; such neglect
4383 or refusal poses a real and present threat of substantial harm
4384 to his or her well-being; and it is not apparent that such harm
4385 may be avoided through the help of willing family members or
4386 friends or the provision of other services; or
4387 b. There is a substantial likelihood that without care or
4388 treatment he or she will cause serious bodily harm to himself or
4389 herself or others in the near future, as evidenced by recent
4390 behavior.



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4391 (c) A person under 18 years of age who wishes to enter
4392 treatment for substance abuse and applies to a service provider
4393 for voluntary admission, pursuant to s. 394.4625(1)(a) ~~s.~~
4394 ~~397.601.~~

4395 ~~(d) A person under 18 years of age who meets the criteria~~
4396 ~~for involuntary admission because there is good faith reason to~~
4397 ~~believe the person is substance abuse impaired pursuant to s.~~
4398 ~~397.675 and, because of such impairment:~~

4399 ~~1. Has lost the power of self-control with respect to~~
4400 ~~substance use; and~~

4401 ~~2.a. Has inflicted, or threatened or attempted to inflict,~~
4402 ~~or unless admitted is likely to inflict, physical harm on~~
4403 ~~himself or herself or another; or~~

4404 ~~b. Is in need of substance abuse services and, by reason of~~
4405 ~~substance abuse impairment, his or her judgment has been so~~
4406 ~~impaired that the person is incapable of appreciating his or her~~
4407 ~~need for such services and of making a rational decision in~~
4408 ~~regard thereto; however, mere refusal to receive such services~~
4409 ~~does not constitute evidence of lack of judgment with respect to~~
4410 ~~his or her need for such services.~~

4411 ~~(d)(e)~~ A person under 18 years of age who meets the
4412 criteria for examination or admission under paragraph (b) ~~or~~
4413 ~~paragraph (d)~~ and has a coexisting mental health and substance
4414 abuse disorder.

4415 Section 54. Effective July 1, 2016, subsection (18) of
4416 section 394.67, Florida Statutes, is amended to read:

4417 394.67 Definitions.—As used in this part, the term:

4418 (18) "Person who is experiencing an acute substance abuse
4419 crisis" means a child, adolescent, or adult who is experiencing



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4420 a medical or emotional crisis because of the use of alcoholic
4421 beverages or any psychoactive or mood-altering substance. The
4422 term includes an individual who meets the criteria for
4423 involuntary admission specified in s. 394.463 ~~s. 397.675~~.

4424 Section 55. Effective July 1, 2016, subsection (2) of
4425 section 394.674, Florida Statutes, is amended to read:

4426 394.674 Eligibility for publicly funded substance abuse and
4427 mental health services; fee collection requirements.—

4428 (2) Crisis services, as defined in s. 394.67, must, within
4429 the limitations of available state and local matching resources,
4430 be available to each person who is eligible for services under
4431 subsection (1), regardless of the person's ability to pay for
4432 such services. A person who is experiencing a mental health
4433 crisis and who does not meet the criteria for involuntary
4434 examination under s. 394.463(1), or a person who is experiencing
4435 a substance abuse crisis and who does not meet the involuntary
4436 admission criteria in s. 394.463 ~~s. 397.675~~, must contribute to
4437 the cost of his or her care and treatment pursuant to the
4438 sliding fee scale developed under subsection (4), unless
4439 charging a fee is contraindicated because of the crisis
4440 situation.

4441 Section 56. Effective July 1, 2016, subsection (6) of
4442 section 394.9085, Florida Statutes, is amended to read:

4443 394.9085 Behavioral provider liability.—

4444 (6) For purposes of this section, the terms "detoxification
4445 services," "addictions receiving facility," and "receiving
4446 facility" have the same meanings as those provided in ss.
4447 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,
4448 respectively.



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4449 Section 57. Effective July 1, 2016, subsection (11) and
4450 paragraph (a) of subsection (18) of section 397.311, Florida
4451 Statutes, are amended to read:

4452 397.311 Definitions.—As used in this chapter, except part
4453 VIII, the term:

4454 (11) "Habitual abuser" means a person who is brought to the
4455 attention of law enforcement for being substance impaired, who
4456 meets the criteria for involuntary admission in s.394.463 ~~s.~~
4457 ~~397.675~~, and who has been taken into custody for such impairment
4458 three or more times during the preceding 12 months.

4459 (18) Licensed service components include a comprehensive
4460 continuum of accessible and quality substance abuse prevention,
4461 intervention, and clinical treatment services, including the
4462 following services:

4463 (a) "Clinical treatment" means a professionally directed,
4464 deliberate, and planned regimen of services and interventions
4465 that are designed to reduce or eliminate the misuse of drugs and
4466 alcohol and promote a healthy, drug-free lifestyle. As defined
4467 by rule, "clinical treatment services" include, but are not
4468 limited to, the following licensable service components:

4469 1. "Addictions receiving facility" is a secure, acute care
4470 facility that provides, at a minimum, detoxification and
4471 stabilization services and ~~is~~ operated 24 hours per day, 7 days
4472 per week; and is designated by the department to serve
4473 individuals found to be substance use impaired as described in
4474 s. 394.463 ~~s. 397.675~~ who meet the placement criteria for this
4475 component.

4476 2. "Day or night treatment" is a service provided in a
4477 nonresidential environment, with a structured schedule of



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4478 treatment and rehabilitative services.

4479 3. "Day or night treatment with community housing" means a
4480 program intended for individuals who can benefit from living
4481 independently in peer community housing while participating in
4482 treatment services for a minimum of 5 hours a day for a minimum
4483 of 25 hours per week.

4484 4. "Detoxification" is a service involving subacute care
4485 that is provided on an inpatient or an outpatient basis to
4486 assist individuals to withdraw from the physiological and
4487 psychological effects of substance abuse and who meet the
4488 placement criteria for this component.

4489 5. "Intensive inpatient treatment" includes a planned
4490 regimen of evaluation, observation, medical monitoring, and
4491 clinical protocols delivered through an interdisciplinary team
4492 approach provided 24-hours-per-day ~~24 hours per day~~, 7-days-per-
4493 week ~~7 days per week~~, in a highly structured, live-in
4494 environment.

4495 6. "Intensive outpatient treatment" is a service that
4496 provides individual or group counseling in a more structured
4497 environment, is of higher intensity and duration than outpatient
4498 treatment, and is provided to individuals who meet the placement
4499 criteria for this component.

4500 7. "Medication-assisted treatment for opiate addiction" is
4501 a service that uses methadone or other medication as authorized
4502 by state and federal law, in combination with medical,
4503 rehabilitative, and counseling services in the treatment of
4504 individuals who are dependent on opioid drugs.

4505 8. "Outpatient treatment" is a service that provides
4506 individual, group, or family counseling by appointment during



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4507 scheduled operating hours for individuals who meet the placement
4508 criteria for this component.

4509 9. "Residential treatment" is a service provided in a
4510 structured live-in environment within a nonhospital setting on a
4511 24-hours-per-day, 7-days-per-week basis, and is intended for
4512 individuals who meet the placement criteria for this component.

4513 Section 58. Effective July 1, 2016, paragraph (b) of
4514 subsection (2) of section 397.702, Florida Statutes, is amended
4515 to read:

4516 397.702 Authorization of local ordinances for treatment of
4517 habitual abusers in licensed secure facilities.-

4518 (2) Ordinances for the treatment of habitual abusers must
4519 provide:

4520 (b) That when seeking treatment of a habitual abuser, the
4521 county or municipality, through an officer or agent specified in
4522 the ordinance, must file with the court a petition which alleges
4523 the following information about the alleged habitual abuser (the
4524 respondent):

4525 1. The name, address, age, and gender of the respondent.

4526 2. The name of any spouse, adult child, other relative, or
4527 guardian of the respondent, if known to the petitioner, and the
4528 efforts, if any, by the petitioner, ~~if any~~, to ascertain this
4529 information.

4530 3. The name of the petitioner, the name of the person who
4531 has physical custody of the respondent, and the current location
4532 of the respondent.

4533 4. That the respondent has been taken into custody for
4534 impairment in a public place, or has been arrested for an
4535 offense committed while impaired, three or more times during the



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4536 preceding 12 months.

4537 5. Specific facts indicating that the respondent meets the
4538 criteria for involuntary admission in s. 394.463 ~~s. 397.675~~.

4539 6. Whether the respondent was advised of his or her right
4540 to be represented by counsel and to request that the court
4541 appoint an attorney if he or she is unable to afford one, and
4542 whether the respondent indicated to petitioner his or her desire
4543 to have an attorney appointed.

4544 Section 59. Effective July 1, 2016, paragraph (a) of
4545 subsection (1) of section 397.94, Florida Statutes, is amended
4546 to read:

4547 397.94 Children's substance abuse services; information and
4548 referral network.—

4549 (1) The substate entity shall determine the most cost-
4550 effective method for delivering this service and may select a
4551 new provider or utilize an existing provider or providers with a
4552 record of success in providing information and referral
4553 services.

4554 (a) The plan must provide assurances that the information
4555 and referral network will include a resource directory that
4556 contains information regarding the children's substance abuse
4557 services available, including, but not limited to:

4558 1. Public and private resources by service component,
4559 including resources for involuntary admissions under s. 394.463
4560 ~~s. 397.675~~.

4561 2. Hours of operation and hours during which services are
4562 provided.

4563 3. Ages of persons served.

4564 4. Description of services.



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4565 5. Eligibility requirements.

4566 6. Fee schedules.

4567 Section 60. Section 402.3057, Florida Statutes, is amended
4568 to read:

4569 402.3057 Persons not required to be refingerprinted or
4570 rescreened.—Any provision of law to the contrary
4571 notwithstanding, human resource personnel who have been
4572 fingerprinted or screened pursuant to chapters 393, 394, 397,
4573 402, and 409, and teachers and noninstructional personnel who
4574 have been fingerprinted pursuant to chapter 1012, who have not
4575 been unemployed for more than 90 days thereafter, and who under
4576 the penalty of perjury attest to the completion of such
4577 fingerprinting or screening and to compliance with the
4578 provisions of this section and the standards for good moral
4579 character as contained in such provisions as ss. 110.1127(2)(c),
4580 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),
4581 shall not be required to be refingerprinted or rescreened in
4582 order to comply with any caretaker screening or fingerprinting
4583 requirements.

4584 Section 61. Section 409.1757, Florida Statutes, is amended
4585 to read:

4586 409.1757 Persons not required to be refingerprinted or
4587 rescreened.—Any law to the contrary notwithstanding, human
4588 resource personnel who have been fingerprinted or screened
4589 pursuant to chapters 393, 394, 397, 402, and this chapter,
4590 teachers who have been fingerprinted pursuant to chapter 1012,
4591 and law enforcement officers who meet the requirements of s.
4592 943.13, who have not been unemployed for more than 90 days
4593 thereafter, and who under the penalty of perjury attest to the



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4594 completion of such fingerprinting or screening and to compliance
4595 with this section and the standards for good moral character as
4596 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
4597 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are
4598 not required to be refingerprinted or rescreened in order to
4599 comply with any caretaker screening or fingerprinting
4600 requirements.

4601 Section 62. Effective July 1, 2016, paragraph (b) of
4602 subsection (1) of section 409.972, Florida Statutes, is amended
4603 to read:

4604 409.972 Mandatory and voluntary enrollment.—

4605 (1) The following Medicaid-eligible persons are exempt from
4606 mandatory managed care enrollment required by s. 409.965, and
4607 may voluntarily choose to participate in the managed medical
4608 assistance program:

4609 (b) Medicaid recipients residing in residential commitment
4610 facilities operated through the Department of Juvenile Justice
4611 or mental health treatment facilities as defined by s.
4612 394.455(47) ~~s. 394.455(32)~~.

4613 Section 63. Effective July 1, 2016, subsection (7) of
4614 section 744.704, Florida Statutes, is amended to read:

4615 744.704 Powers and duties.—

4616 (7) A public guardian shall not commit a ward to a mental
4617 health treatment facility, as defined in s. 394.455(47) ~~s.~~
4618 ~~394.455(32)~~, without an involuntary placement proceeding as
4619 provided by law.

4620 Section 64. Effective July 1, 2016, paragraph (a) of
4621 subsection (2) of section 790.065, Florida Statutes, is amended
4622 to read:



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4623 790.065 Sale and delivery of firearms.-
4624 (2) Upon receipt of a request for a criminal history record
4625 check, the Department of Law Enforcement shall, during the
4626 licensee's call or by return call, forthwith:
4627 (a) Review any records available to determine if the
4628 potential buyer or transferee:
4629 1. Has been convicted of a felony and is prohibited from
4630 receipt or possession of a firearm pursuant to s. 790.23;
4631 2. Has been convicted of a misdemeanor crime of domestic
4632 violence, and therefore is prohibited from purchasing a firearm;
4633 3. Has had adjudication of guilt withheld or imposition of
4634 sentence suspended on any felony or misdemeanor crime of
4635 domestic violence unless 3 years have elapsed since probation or
4636 any other conditions set by the court have been fulfilled or
4637 expunction has occurred; or
4638 4. Has been adjudicated mentally defective or has been
4639 committed to a mental institution by a court or as provided in
4640 sub-sub-subparagraph b.(II), and as a result is prohibited by
4641 state or federal law from purchasing a firearm.
4642 a. As used in this subparagraph, "adjudicated mentally
4643 defective" means a determination by a court that a person, as a
4644 result of marked subnormal intelligence, or mental illness,
4645 incompetency, condition, or disease, is a danger to himself or
4646 herself or to others or lacks the mental capacity to contract or
4647 manage his or her own affairs. The phrase includes a judicial
4648 finding of incapacity under s. 744.331(6)(a), an acquittal by
4649 reason of insanity of a person charged with a criminal offense,
4650 and a judicial finding that a criminal defendant is not
4651 competent to stand trial.



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4652 b. As used in this subparagraph, "committed to a mental
4653 institution" means:

4654 (I) Involuntary commitment, commitment for mental
4655 defectiveness or mental illness, and commitment for substance
4656 abuse. The phrase includes involuntary inpatient placement as
4657 defined in s. 394.467, involuntary outpatient placement as
4658 defined in s. 394.4655, involuntary assessment and stabilization
4659 under s. 394.463(2)(g) ~~s. 397.6818~~, or ~~and~~ involuntary substance
4660 abuse treatment under s. 394.463 ~~s. 397.6957~~, but does not
4661 include a person in a mental institution for observation or
4662 discharged from a mental institution based upon the initial
4663 review by the physician or a voluntary admission to a mental
4664 institution; or

4665 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
4666 admission to a mental institution for outpatient or inpatient
4667 treatment of a person who had an involuntary examination under
4668 s. 394.463, where each of the following conditions have been
4669 met:

4670 (A) An examining physician found that the person is an
4671 imminent danger to himself or herself or others.

4672 (B) The examining physician certified that if the person
4673 did not agree to voluntary treatment, a petition for involuntary
4674 outpatient or inpatient treatment would have been filed under s.
4675 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician
4676 certified that a petition was filed and the person subsequently
4677 agreed to voluntary treatment prior to a court hearing on the
4678 petition.

4679 (C) Before agreeing to voluntary treatment, the person
4680 received written notice of that finding and certification, and



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4681 written notice that as a result of such finding, he or she may
4682 be prohibited from purchasing a firearm, and may not be eligible
4683 to apply for or retain a concealed weapon or firearms license
4684 under s. 790.06 and the person acknowledged such notice in
4685 writing, in substantially the following form:

4686
4687 "I understand that the doctor who examined me believes I am
4688 a danger to myself or to others. I understand that if I do not
4689 agree to voluntary treatment, a petition will be filed in court
4690 to require me to receive involuntary treatment. I understand
4691 that if that petition is filed, I have the right to contest it.
4692 In the event a petition has been filed, I understand that I can
4693 subsequently agree to voluntary treatment prior to a court
4694 hearing. I understand that by agreeing to voluntary treatment in
4695 either of these situations, I may be prohibited from buying
4696 firearms and from applying for or retaining a concealed weapons
4697 or firearms license until I apply for and receive relief from
4698 that restriction under Florida law."

4699
4700 (D) A judge or a magistrate has, pursuant to sub-sub-
4701 subparagraph c.(II), reviewed the record of the finding,
4702 certification, notice, and written acknowledgment classifying
4703 the person as an imminent danger to himself or herself or
4704 others, and ordered that such record be submitted to the
4705 department.

4706 c. In order to check for these conditions, the department
4707 shall compile and maintain an automated database of persons who
4708 are prohibited from purchasing a firearm based on court records
4709 of adjudications of mental defectiveness or commitments to



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4710 mental institutions.

4711 (I) Except as provided in sub-sub-subparagraph (II), clerks
4712 of court shall submit these records to the department within 1
4713 month after the rendition of the adjudication or commitment.
4714 Reports shall be submitted in an automated format. The reports
4715 must, at a minimum, include the name, along with any known alias
4716 or former name, the sex, and the date of birth of the subject.

4717 (II) For persons committed to a mental institution pursuant
4718 to sub-sub-subparagraph b.(II), within 24 hours after the
4719 person's agreement to voluntary admission, a record of the
4720 finding, certification, notice, and written acknowledgment must
4721 be filed by the administrator of the receiving or treatment
4722 facility, as defined in s. 394.455, with the clerk of the court
4723 for the county in which the involuntary examination under s.
4724 394.463 occurred. No fee shall be charged for the filing under
4725 this sub-sub-subparagraph. The clerk must present the records to
4726 a judge or magistrate within 24 hours after receipt of the
4727 records. A judge or magistrate is required and has the lawful
4728 authority to review the records ex parte and, if the judge or
4729 magistrate determines that the record supports the classifying
4730 of the person as an imminent danger to himself or herself or
4731 others, to order that the record be submitted to the department.
4732 If a judge or magistrate orders the submittal of the record to
4733 the department, the record must be submitted to the department
4734 within 24 hours.

4735 d. A person who has been adjudicated mentally defective or
4736 committed to a mental institution, as those terms are defined in
4737 this paragraph, may petition the circuit court that made the
4738 adjudication or commitment, or the court that ordered that the



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4739 record be submitted to the department pursuant to sub-sub-
4740 subparagraph c.(II), for relief from the firearm disabilities
4741 imposed by such adjudication or commitment. A copy of the
4742 petition shall be served on the state attorney for the county in
4743 which the person was adjudicated or committed. The state
4744 attorney may object to and present evidence relevant to the
4745 relief sought by the petition. The hearing on the petition may
4746 be open or closed as the petitioner may choose. The petitioner
4747 may present evidence and subpoena witnesses to appear at the
4748 hearing on the petition. The petitioner may confront and cross-
4749 examine witnesses called by the state attorney. A record of the
4750 hearing shall be made by a certified court reporter or by court-
4751 approved electronic means. The court shall make written findings
4752 of fact and conclusions of law on the issues before it and issue
4753 a final order. The court shall grant the relief requested in the
4754 petition if the court finds, based on the evidence presented
4755 with respect to the petitioner's reputation, the petitioner's
4756 mental health record and, if applicable, criminal history
4757 record, the circumstances surrounding the firearm disability,
4758 and any other evidence in the record, that the petitioner will
4759 not be likely to act in a manner that is dangerous to public
4760 safety and that granting the relief would not be contrary to the
4761 public interest. If the final order denies relief, the
4762 petitioner may not petition again for relief from firearm
4763 disabilities until 1 year after the date of the final order. The
4764 petitioner may seek judicial review of a final order denying
4765 relief in the district court of appeal having jurisdiction over
4766 the court that issued the order. The review shall be conducted
4767 de novo. Relief from a firearm disability granted under this



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4768 sub-subparagraph has no effect on the loss of civil rights,
4769 including firearm rights, for any reason other than the
4770 particular adjudication of mental defectiveness or commitment to
4771 a mental institution from which relief is granted.

4772 e. Upon receipt of proper notice of relief from firearm
4773 disabilities granted under sub-subparagraph d., the department
4774 shall delete any mental health record of the person granted
4775 relief from the automated database of persons who are prohibited
4776 from purchasing a firearm based on court records of
4777 adjudications of mental defectiveness or commitments to mental
4778 institutions.

4779 f. The department is authorized to disclose data collected
4780 pursuant to this subparagraph to agencies of the Federal
4781 Government and other states for use exclusively in determining
4782 the lawfulness of a firearm sale or transfer. The department is
4783 also authorized to disclose this data to the Department of
4784 Agriculture and Consumer Services for purposes of determining
4785 eligibility for issuance of a concealed weapons or concealed
4786 firearms license and for determining whether a basis exists for
4787 revoking or suspending a previously issued license pursuant to
4788 s. 790.06(10). When a potential buyer or transferee appeals a
4789 nonapproval based on these records, the clerks of court and
4790 mental institutions shall, upon request by the department,
4791 provide information to help determine whether the potential
4792 buyer or transferee is the same person as the subject of the
4793 record. Photographs and any other data that could confirm or
4794 negate identity must be made available to the department for
4795 such purposes, notwithstanding any other provision of state law
4796 to the contrary. Any such information that is made confidential



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4797 or exempt from disclosure by law shall retain such confidential
4798 or exempt status when transferred to the department.

4799 Section 65. Effective July 1, 2016, section 397.601,
4800 Florida Statutes, which composes part IV of chapter 397, Florida
4801 Statutes, is repealed.

4802 Section 66. Effective July 1, 2016, sections 397.675,
4803 397.6751, 397.6752, 397.6758, 397.6759, 397.677, 397.6771,
4804 397.6772, 397.6773, 397.6774, 397.6775, 397.679, 397.6791,
4805 397.6793, 397.6795, 397.6797, 397.6798, 397.6799, 397.681,
4806 397.6811, 397.6814, 397.6815, 397.6818, 397.6819, 397.6821,
4807 397.6822, 397.693, 397.695, 397.6951, 397.6955, 397.6957,
4808 397.697, 397.6971, 397.6975, and 397.6977, Florida Statutes,
4809 which compose part V of chapter 397, Florida Statutes, are
4810 repealed.

4811 Section 67. For the purpose of incorporating the amendment
4812 made by this act to section 394.4599, Florida Statutes, in a
4813 reference thereto, subsection (1) of section 394.4685, Florida
4814 Statutes, is reenacted to read:

4815 394.4685 Transfer of patients among facilities.—

4816 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

4817 (a) A patient who has been admitted to a public receiving
4818 facility, or the family member, guardian, or guardian advocate
4819 of such patient, may request the transfer of the patient to
4820 another public receiving facility. A patient who has been
4821 admitted to a public treatment facility, or the family member,
4822 guardian, or guardian advocate of such patient, may request the
4823 transfer of the patient to another public treatment facility.
4824 Depending on the medical treatment or mental health treatment
4825 needs of the patient and the availability of appropriate



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4826 facility resources, the patient may be transferred at the
4827 discretion of the department. If the department approves the
4828 transfer of an involuntary patient, notice according to the
4829 provisions of s. 394.4599 shall be given prior to the transfer
4830 by the transferring facility. The department shall respond to
4831 the request for transfer within 2 working days after receipt of
4832 the request by the facility administrator.

4833 (b) When required by the medical treatment or mental health
4834 treatment needs of the patient or the efficient utilization of a
4835 public receiving or public treatment facility, a patient may be
4836 transferred from one receiving facility to another, or one
4837 treatment facility to another, at the department's discretion,
4838 or, with the express and informed consent of the patient or the
4839 patient's guardian or guardian advocate, to a facility in
4840 another state. Notice according to the provisions of s. 394.4599
4841 shall be given prior to the transfer by the transferring
4842 facility. If prior notice is not possible, notice of the
4843 transfer shall be provided as soon as practicable after the
4844 transfer.

4845 Section 68. For the purpose of incorporating the amendment
4846 made by this act to section 394.4599, Florida Statutes, in a
4847 reference thereto, subsection (2) of section 394.469, Florida
4848 Statutes, is reenacted to read:

4849 394.469 Discharge of involuntary patients.—

4850 (2) NOTICE.—Notice of discharge or transfer of a patient
4851 shall be given as provided in s. 394.4599.

4852 Section 69. Except as otherwise expressly provided in this
4853 act, this act shall take effect July 1, 2015.

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4855 ===== T I T L E A M E N D M E N T =====

4856 And the title is amended as follows:

4857 Delete everything before the enacting clause

4858 and insert:

4859 A bill to be entitled

4860 An act relating to mental health and substance abuse;
4861 amending ss. 29.004, 39.001, 39.507, and 39.521, F.S.;
4862 conforming provisions to changes made by the act;
4863 amending s. 381.0056, F.S.; revising the definition of
4864 the term "emergency health needs"; requiring school
4865 health services plans to include notification
4866 requirements when a student is removed from school,
4867 school transportation, or a school-sponsored activity
4868 for involuntary examination; amending s. 394.453,
4869 F.S.; providing legislative intent regarding the
4870 development of programs related to substance abuse
4871 impairment by the Department of Children and Families;
4872 expanding legislative intent related to a guarantee of
4873 dignity and human rights to all individuals who are
4874 admitted to substance abuse treatment facilities;
4875 amending s. 394.455, F.S.; defining and redefining
4876 terms; deleting terms; amending s. 394.457, F.S.;
4877 adding substance abuse services as a program focus for
4878 which the Department of Children and Families is
4879 responsible; deleting a requirement that the
4880 department establish minimum standards for personnel
4881 employed in mental health programs and provide
4882 orientation and training materials; amending s.
4883 394.4573, F.S.; deleting a term; adding substance



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4884 abuse care as an element of the continuity of care
4885 management system that the department must establish;
4886 deleting duties and measures of performance of the
4887 department regarding the continuity of care management
4888 system; amending s. 394.459, F.S.; extending a right
4889 to dignity to all individuals held for examination or
4890 admitted for mental health or substance abuse
4891 treatment; providing procedural requirements that must
4892 be followed to detain without consent an individual
4893 who has a substance abuse impairment but who has not
4894 been charged with a criminal offense; providing that
4895 individuals held for examination or admitted for
4896 treatment at a facility have a right to certain
4897 evaluation and treatment procedures; removing
4898 provisions regarding express and informed consent for
4899 medical procedures requiring the use of a general
4900 anesthetic or electroconvulsive treatment; requiring
4901 facilities to have written procedures for reporting
4902 events that place individuals receiving services at
4903 risk of harm; requiring service providers to provide
4904 information concerning advance directives to
4905 individuals receiving services; amending s. 394.4597,
4906 F.S.; specifying certain persons who are prohibited
4907 from being selected as an individual's representative;
4908 providing certain rights to representatives; amending
4909 s. 394.4598, F.S.; specifying certain persons who are
4910 prohibited from being appointed as an individual's
4911 guardian advocate; providing guidelines for decisions
4912 of guardian advocates; amending s. 394.4599, F.S.;



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4913 including health care surrogates and proxies as
4914 individuals who may act on behalf of an individual
4915 involuntarily admitted to a facility; requiring a
4916 receiving facility to give notice immediately of the
4917 whereabouts of a minor who is being held involuntarily
4918 to the minor's parent, guardian, caregiver, or
4919 guardian advocate; providing circumstances when
4920 notification may be delayed; requiring the receiving
4921 facility to make continuous attempts to notify;
4922 authorizing the receiving facility to seek assistance
4923 from law enforcement under certain circumstances;
4924 requiring the receiving facility to document
4925 notification attempts in the minor's clinical record;
4926 amending s. 394.4615, F.S.; adding a condition under
4927 which the clinical record of an individual must be
4928 released to the state attorney; providing for the
4929 release of information from the clinical record to law
4930 enforcement agencies under certain circumstances;
4931 amending s. 394.462, F.S.; providing that a person in
4932 custody for a felony other than a forcible felony must
4933 be transported to the nearest receiving facility for
4934 examination; providing that a law enforcement officer
4935 may transport an individual meeting the criteria for
4936 voluntary admission to a mental health receiving
4937 facility, addictions receiving facility, or
4938 detoxification facility at the individual's request;
4939 amending s. 394.4625, F.S.; providing criteria for the
4940 examination and treatment of an individual who is
4941 voluntarily admitted to a facility; providing criteria



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4942 for the release or discharge of the individual;
4943 providing that a voluntarily admitted individual who
4944 is released or discharged and who is currently charged
4945 with a crime shall be returned to the custody of a law
4946 enforcement officer; providing procedures for
4947 transferring an individual to voluntary status and
4948 involuntary status; amending s. 394.463, F.S.;

4949 providing for the involuntary examination of a person
4950 for a substance abuse impairment; providing for the
4951 transportation of an individual for an involuntary
4952 examination; providing that a certificate for an
4953 involuntary examination must contain certain
4954 information; providing criteria and procedures for the
4955 release of an individual held for involuntary
4956 examination from receiving or treatment facilities;
4957 amending s. 394.4655, F.S.; adding substance abuse
4958 impairment as a condition to which criteria for
4959 involuntary outpatient placement apply; providing
4960 guidelines for an attorney representing an individual
4961 subject to proceedings for involuntary outpatient
4962 placement; requiring the court to appoint the office
4963 of criminal conflict and civil regional counsel under
4964 certain circumstances; providing guidelines for the
4965 state attorney in prosecuting a petition for
4966 involuntary placement; requiring the court to consider
4967 certain information when determining whether to
4968 appoint a guardian advocate for the individual;
4969 requiring the court to inform the individual and his
4970 or her representatives of the individual's right to an



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4971 independent expert examination with regard to
4972 proceedings for involuntary outpatient placement;
4973 amending s. 394.467, F.S.; adding substance abuse
4974 impairment as a condition to which criteria for
4975 involuntary inpatient placement apply; adding
4976 addictions receiving facilities and detoxification
4977 facilities as identified receiving facilities;
4978 providing for first and second medical opinions in
4979 proceedings for placement for treatment of substance
4980 abuse impairment; requiring the court to appoint the
4981 office of criminal conflict and civil regional counsel
4982 under certain circumstances; providing guidelines for
4983 attorney representation of an individual subject to
4984 proceedings for involuntary inpatient placement;
4985 providing guidelines for the state attorney in
4986 prosecuting a petition for involuntary placement;
4987 setting standards for the court to accept a waiver of
4988 the individual's rights; requiring the court to
4989 consider certain testimony regarding the individual's
4990 prior history in proceedings; requiring the Division
4991 of Administrative Hearings to inform the individual
4992 and his or her representatives of the right to an
4993 independent expert examination; amending s. 394.4672,
4994 F.S.; providing authority of facilities of the United
4995 States Department of Veterans Affairs to conduct
4996 certain examinations and provide certain treatments;
4997 amending s. 394.47891, F.S.; expanding eligibility for
4998 military veterans and servicemembers court programs;
4999 creating s. 394.47892, F.S.; authorizing the creation



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5000 of treatment-based mental health court programs;
5001 providing for eligibility; providing program
5002 requirements; providing for an advisory committee;
5003 amending s. 394.656, F.S.; renaming the Criminal
5004 Justice, Mental Health, and Substance Abuse Statewide
5005 Grant Review Committee as the Criminal Justice, Mental
5006 Health, and Substance Abuse Statewide Grant Policy
5007 Committee; providing additional members of the
5008 committee; providing duties of the committee;
5009 providing additional qualifications for committee
5010 members; directing the Department of Children and
5011 Families to create a grant review and selection
5012 committee; providing duties of the committee;
5013 authorizing a designated not-for-profit community
5014 provider, managing entity, or coordinated care
5015 organization to apply for certain grants; providing
5016 eligibility requirements; defining the term
5017 "sequential intercept mapping"; removing provisions
5018 relating to applications for certain planning grants;
5019 amending s. 394.875, F.S.; removing a limitation on
5020 the number of beds in crisis stabilization units;
5021 amending s. 394.9082, F.S.; defining the term "public
5022 receiving facility"; requiring the department to
5023 establish specified standards and protocols with
5024 respect to the administration of the crisis
5025 stabilization services utilization database; directing
5026 managing entities to require public receiving
5027 facilities to submit utilization data on a periodic
5028 basis; providing requirements for the data; requiring



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5029 managing entities to periodically submit aggregate
5030 data to the department; requiring the department to
5031 adopt rules; requiring the department to annually
5032 submit a report to the Governor and the Legislature;
5033 prescribing report requirements; providing an
5034 appropriation to implement the database; providing a
5035 directive to the Division of Law Revision and
5036 Information; creating s. 765.4015, F.S.; providing a
5037 short title; creating s. 765.402, F.S.; providing
5038 legislative findings; creating s. 765.403, F.S.;

5039 defining terms; creating s. 765.405, F.S.; authorizing
5040 an adult with capacity to execute a mental health or
5041 substance abuse treatment advance directive; providing
5042 a presumption of validity if certain requirements are
5043 met; specifying provisions that an advance directive
5044 may include; creating s. 765.406, F.S.; providing for
5045 execution of the mental health or substance abuse
5046 treatment advance directive; establishing requirements
5047 for a valid mental health or substance abuse treatment
5048 advance directive; providing that a mental health or
5049 substance abuse treatment advance directive is valid
5050 upon execution even if a part of the advance directive
5051 takes effect at a later date; allowing a mental health
5052 or substance abuse treatment advance directive to be
5053 revoked, in whole or in part, or to expire under its
5054 own terms; specifying that a mental health or
5055 substance abuse treatment advance directive does not
5056 or may not serve specified purposes; creating s.
5057 765.407, F.S.; providing circumstances under which a



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5058 mental health or substance abuse treatment advance
5059 directive may be revoked; providing circumstances
5060 under which a principal may waive specific directive
5061 provisions without revoking the advance directive;
5062 creating s. 765.410, F.S.; prohibiting criminal
5063 prosecution of a health care facility, provider, or
5064 surrogate who acts pursuant to a mental health or
5065 substance abuse treatment decision; creating s.
5066 765.411, F.S.; providing for recognition of a mental
5067 health and substance abuse treatment advance directive
5068 executed in another state if it complies with the laws
5069 of this state; amending s. 910.035, F.S.; defining the
5070 term "problem-solving court"; authorizing a person
5071 eligible for participation in a problem-solving court
5072 to transfer his or her case to another county's
5073 problem-solving court under certain circumstances;
5074 making technical changes; amending s. 916.106, F.S.;
5075 redefining the term "court" to include county courts
5076 in certain circumstances; amending s. 916.17, F.S.;
5077 authorizing a county court to order the conditional
5078 release of a defendant for the provision of outpatient
5079 care and treatment; creating s. 916.185, F.S.;
5080 providing legislative findings and intent; defining
5081 terms; creating the Forensic Hospital Diversion Pilot
5082 Program; requiring the Department of Children and
5083 Families to implement a Forensic Hospital Diversion
5084 Pilot Program in five specified judicial circuits;
5085 providing eligibility criteria for participation in
5086 the pilot program; providing legislative intent



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5087 concerning the training of judges; authorizing the
5088 department to adopt rules; directing the Office of
5089 Program Policy Analysis and Government Accountability
5090 to submit a report to the Governor and the
5091 Legislature; creating s. 944.805, F.S.; defining the
5092 terms "department" and "nonviolent offender";
5093 requiring the Department of Corrections to develop and
5094 administer a reentry program for nonviolent offenders
5095 which is intended to divert nonviolent offenders from
5096 long periods of incarceration; requiring that the
5097 program include intensive substance abuse treatment
5098 and rehabilitation programs; providing for the minimum
5099 length of service in the program; providing that any
5100 portion of a sentence before placement in the program
5101 does not count as progress toward program completion;
5102 identifying permissible locations for the operation of
5103 a reentry program; specifying eligibility criteria for
5104 a nonviolent offender's participation in the reentry
5105 program; requiring the department to screen and select
5106 eligible offenders for the program based on specified
5107 considerations; requiring the department to notify a
5108 nonviolent offender's sentencing court to obtain
5109 approval before the nonviolent offender is placed in
5110 the reentry program; requiring the department to
5111 notify the state attorney that an offender is being
5112 considered for placement in the program; authorizing
5113 the state attorney to file objections to placing the
5114 offender in the reentry program within a specified
5115 period; authorizing the sentencing court to consider



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5116 certain factors when deciding whether to approve an
5117 offender for placement in a reentry program; requiring
5118 the sentencing court to notify the department of the
5119 court's decision to approve or disapprove the
5120 requested placement within a specified period;
5121 requiring a nonviolent offender to undergo an
5122 educational assessment and a complete substance abuse
5123 assessment if admitted into the reentry program;
5124 requiring an offender to be enrolled in an adult
5125 education program in specified circumstances;
5126 requiring that assessments of vocational skills and
5127 future career education be provided to an offender;
5128 requiring that certain reevaluation be made
5129 periodically; providing that a participating
5130 nonviolent offender is subject to the disciplinary
5131 rules of the department; specifying the reasons for
5132 which an offender may be terminated from the reentry
5133 program; requiring that the department submit a report
5134 to the sentencing court at least 30 days before a
5135 nonviolent offender is scheduled to complete the
5136 reentry program; specifying the issues to be addressed
5137 in the report; authorizing a court to schedule a
5138 hearing to consider any modification to an imposed
5139 sentence; requiring the sentencing court to issue an
5140 order modifying the sentence imposed and placing a
5141 nonviolent offender on drug offender probation if the
5142 nonviolent offender's performance is satisfactory;
5143 authorizing the court to revoke probation and impose
5144 the original sentence in specified circumstances;



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5145 authorizing the court to require an offender to
5146 complete a postadjudicatory drug court program in
5147 specified circumstances; directing the department to
5148 implement the reentry program using available
5149 resources; authorizing the department to enter into
5150 contracts with qualified individuals, agencies, or
5151 corporations for services for the reentry program;
5152 requiring offenders to abide by department conduct
5153 rules; authorizing the department to impose
5154 administrative or protective confinement as necessary;
5155 providing that the section does not create a right to
5156 placement in the reentry program or any right to
5157 placement or early release under supervision of any
5158 type; providing that the section does not create a
5159 cause of action related to the program; authorizing
5160 the department to establish a system of incentives
5161 within the reentry program which the department may
5162 use to promote participation in rehabilitative
5163 programs and the orderly operation of institutions and
5164 facilities; requiring the department to develop a
5165 system for tracking recidivism, including, but not
5166 limited to, rearrests and recommitment of nonviolent
5167 offenders who successfully complete the reentry
5168 program, and to report on recidivism in an annual
5169 report; requiring the department to submit an annual
5170 report to the Governor and Legislature detailing the
5171 extent of implementation of the reentry program,
5172 specifying requirements for the report; requiring the
5173 department to adopt rules; providing that specified



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5174 provisions are not severable; amending ss. 948.01 and
5175 948.06, F.S.; providing for courts to order certain
5176 defendants on probation or community control to
5177 postadjudicatory mental health court programs;
5178 amending s. 948.08, F.S.; expanding eligibility
5179 requirements for certain pretrial intervention
5180 programs; providing for voluntary admission into
5181 pretrial mental health court program; amending s.
5182 948.16, F.S.; expanding eligibility of veterans for a
5183 misdemeanor pretrial veterans' treatment intervention
5184 program; providing eligibility of misdemeanor
5185 defendants for a misdemeanor pretrial mental health
5186 court program; amending s. 948.21, F.S.; expanding
5187 veterans' eligibility for participating in treatment
5188 programs while on court-ordered probation or community
5189 control; amending s. 985.345, F.S.; authorizing
5190 pretrial mental health court programs for certain
5191 juvenile offenders; providing for disposition of
5192 pending charges after completion of the pretrial
5193 intervention program; amending ss. 1002.20 and
5194 1002.33, F.S.; requiring public school and charter
5195 school principals or their designees to provide notice
5196 of the whereabouts of a student removed from school,
5197 school transportation, or a school-sponsored activity
5198 for involuntary examination; providing circumstances
5199 under which notification may be delayed; requiring
5200 district school boards and charter school governing
5201 boards to develop notification policies and
5202 procedures; amending ss. 39.407, 394.4612, 394.495,



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5203 394.496, 394.499, 394.67, 394.674, 394.9085, 397.311,
5204 397.702, 397.94, 402.3057, 409.1757, 409.972, 744.704,
5205 and 790.065, F.S.; conforming cross-references;
5206 repealing s. 397.601, F.S., relating to voluntary
5207 admissions; repealing s. 397.675, F.S., relating to
5208 criteria for involuntary admissions, including
5209 protective custody, emergency admission, and other
5210 involuntary assessment, involuntary treatment, and
5211 alternative involuntary assessment for minors, for
5212 purposes of assessment and stabilization, and for
5213 involuntary treatment; repealing s. 397.6751, F.S.,
5214 relating to service provider responsibilities
5215 regarding involuntary admissions; repealing s.
5216 397.6752, F.S., relating to referral of involuntarily
5217 admitted individual for voluntary treatment; repealing
5218 s. 397.6758, F.S., relating to release of individual
5219 from protective custody, emergency admission,
5220 involuntary assessment, involuntary treatment, and
5221 alternative involuntary assessment of a minor;
5222 repealing s. 397.6759, F.S., relating to parental
5223 participation in treatment; repealing s. 397.677,
5224 F.S., relating to protective custody; circumstances
5225 justifying; repealing s. 397.6771, F.S., relating to
5226 protective custody with consent; repealing s.
5227 397.6772, F.S., relating to protective custody without
5228 consent; repealing s. 397.6773, F.S., relating to
5229 dispositional alternatives after protective custody;
5230 repealing s. 397.6774, F.S., relating to department to
5231 maintain lists of licensed facilities; repealing s.



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5232 397.6775, F.S., relating to Immunity from liability;
5233 repealing s. 397.679, F.S., relating to emergency
5234 admission; circumstances justifying; repealing s.
5235 397.6791, F.S., relating to emergency admission;
5236 persons who may initiate; repealing s. 397.6793, F.S.,
5237 relating to physician's certificate for emergency
5238 admission; repealing s. 397.6795, F.S., relating to
5239 transportation-assisted delivery of persons for
5240 emergency assessment; repealing s. 397.6797, F.S.,
5241 relating to dispositional alternatives after emergency
5242 admission; repealing s. 397.6798, F.S., relating to
5243 alternative involuntary assessment procedure for
5244 minors; repealing s. 397.6799, F.S., relating to
5245 disposition of minor upon completion of alternative
5246 involuntary assessment; repealing s. 397.681, F.S.,
5247 relating to involuntary petitions; general provisions;
5248 court jurisdiction and right to counsel; repealing s.
5249 397.6811, F.S., relating to involuntary assessment and
5250 stabilization; repealing s. 397.6814, F.S., relating
5251 to involuntary assessment and stabilization; contents
5252 of petition; repealing s. 397.6815, F.S., relating to
5253 involuntary assessment and stabilization; procedure;
5254 repealing s. 397.6818, F.S., relating to court
5255 determination; repealing s. 397.6819, F.S., relating
5256 to involuntary assessment and stabilization;
5257 responsibility of licensed service provider; repealing
5258 s. 397.6821, F.S., relating to extension of time for
5259 completion of involuntary assessment and
5260 stabilization; repealing s. 397.6822, F.S., relating



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5261 to disposition of individual after involuntary
5262 assessment; repealing s. 397.693, F.S., relating to
5263 involuntary treatment; repealing s. 397.695, F.S.,
5264 relating to involuntary treatment; persons who may
5265 petition; repealing s. 397.6951, F.S., relating to
5266 contents of petition for involuntary treatment;
5267 repealing s. 397.6955, F.S., relating to duties of
5268 court upon filing of petition for involuntary
5269 treatment; repealing s. 397.6957, F.S., relating to
5270 hearing on petition for involuntary treatment;
5271 repealing s. 397.697, F.S., relating to court
5272 determination; effect of court order for involuntary
5273 substance abuse treatment; repealing s. 397.6971,
5274 F.S., relating to early release from involuntary
5275 substance abuse treatment; repealing s. 397.6975,
5276 F.S., relating to extension of involuntary substance
5277 abuse treatment period; repealing s. 397.6977, F.S.,
5278 relating to disposition of individual upon completion
5279 of involuntary substance abuse treatment; reenacting
5280 ss. 394.4685(1), and 394.469(2), F.S., to incorporate
5281 the amendment made to s. 394.4599, F.S., in references
5282 thereto; providing effective dates.