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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to mental health and substance abuse;
amending s. 29.004, F.S.; including services provided
to treatment-based mental health programs within case
management funded from state revenues as an element of
the state courts system; amending s. 39.001, F.S.;
providing legislative intent regarding mental illness
for purposes of the child welfare system; amending s.
39.507, F.S.; providing for consideration of mental
health issues and involvement in treatment-based
mental health programs in adjudicatory hearings and
orders; amending s. 39.521, F.S.; providing for
consideration of mental health issues and involvement
in treatment-based mental health programs in
disposition hearings; amending s. 394.455, F.S.;
defining terms; revising definitions; amending s.
394.4573, F.S.; requiring the Department of Children
and Families to submit a certain assessment to the
Governor and the Legislature by a specified date;
redefining terms; providing essential elements of a
coordinated system of care; providing requirements for
the department's annual assessment; authorizing the
department to award certain grants; deleting duties
and measures of the department regarding continuity of
care management systems; amending s. 394.4597, F.S.;
revising the prioritization of health care surrogates
to be selected for involuntary patients; specifying



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28 certain persons who are prohibited from being selected
29 as an individual's representative; amending s.
30 394.4598, F.S.; specifying certain persons who are
31 prohibited from being appointed as a person's guardian
32 advocate; amending s. 394.462, F.S.; requiring that
33 counties develop and implement transportation plans;
34 providing requirements for the plans; revising
35 requirements for transportation to a receiving
36 facility and treatment facility; deleting exceptions
37 to such requirements; amending s. 394.463, F.S.;
38 authorizing county or circuit courts to enter ex parte
39 orders for involuntary examinations; requiring a
40 facility to provide copies of ex parte orders,
41 reports, and certifications to managing entities and
42 the department, rather than the Agency for Health Care
43 Administration; requiring the managing entity and
44 department to receive certain orders, certificates,
45 and reports; requiring the department to provide such
46 documents to the Agency for Health Care
47 Administration; requiring certain individuals to be
48 released to law enforcement custody; providing
49 exceptions; amending s. 394.4655, F.S.; providing for
50 involuntary outpatient services; requiring a service
51 provider to document certain inquiries; requiring the
52 managing entity to document certain efforts; making
53 technical changes; amending s. 394.467, F.S.; revising
54 criteria for involuntary inpatient placement;
55 requiring a facility filing a petition for involuntary
56 inpatient placement to send a copy to the department



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57 and managing entity; revising criteria for a hearing
58 on involuntary inpatient placement; revising criteria
59 for a procedure for continued involuntary inpatient
60 services; specifying requirements for a certain waiver
61 of the patient's attendance at a hearing; requiring
62 the court to consider certain testimony and evidence
63 regarding a patient's incompetence; amending s.
64 394.46715, F.S.; revising rulemaking authority of the
65 department; creating s. 394.761, F.S.; authorizing the
66 agency and the department to develop a plan for
67 revenue maximization; requiring the plan to be
68 submitted to the Legislature by a certain date;
69 amending s. 394.875, F.S.; requiring the department to
70 modify licensure rules and procedures to create an
71 option for a single, consolidated license for certain
72 providers by a specified date; amending s. 394.9082,
73 F.S.; providing a purpose for behavioral health
74 managing entities; revising definitions; providing
75 duties of the department; requiring the department to
76 revise its contracts with managing entities; providing
77 duties for managing entities; deleting provisions
78 relating to legislative findings and intent, service
79 delivery strategies, essential elements, reporting
80 requirements, and rulemaking authority; amending s.
81 397.311, F.S.; defining the term "involuntary
82 services"; revising the definition of the term
83 "qualified professional"; conforming a cross-
84 reference; amending s. 397.675, F.S.; revising the
85 criteria for involuntary admissions due to substance



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86 abuse or co-occurring mental health disorders;
87 amending s. 397.679, F.S.; specifying the licensed
88 professionals who may complete a certificate for the
89 involuntary admission of an individual; amending s.
90 397.6791, F.S.; providing a list of professionals
91 authorized to initiate a certificate for an emergency
92 assessment or admission of a person with a substance
93 abuse disorder; amending s. 397.6793, F.S.; revising
94 the criteria for initiation of a certificate for an
95 emergency admission for a person who is substance
96 abuse impaired; amending s. 397.6795, F.S.; revising
97 the list of persons who may deliver a person for an
98 emergency assessment; amending s. 397.681, F.S.;
99 prohibiting the court from charging a fee for
100 involuntary petitions; amending s. 397.6811, F.S.;
101 revising the list of persons who may file a petition
102 for an involuntary assessment and stabilization;
103 amending s. 397.6814, F.S.; prohibiting a fee from
104 being charged for the filing of a petition for
105 involuntary assessment and stabilization; amending s.
106 397.6819, F.S.; revising the responsibilities of
107 service providers who admit an individual for an
108 involuntary assessment and stabilization; amending s.
109 397.695, F.S.; authorizing certain persons to file a
110 petition for involuntary outpatient services of an
111 individual; providing procedures and requirements for
112 such petitions; amending s. 397.6951, F.S.; requiring
113 that certain additional information be included in a
114 petition for involuntary outpatient services; amending



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115 s. 397.6955, F.S.; requiring a court to fulfill
116 certain additional duties upon the filing of petition
117 for involuntary outpatient services; amending s.
118 397.6957, F.S.; providing additional requirements for
119 a hearing on a petition for involuntary outpatient
120 services; amending s. 397.697, F.S.; authorizing a
121 court to make a determination of involuntary
122 outpatient services; prohibiting a court from ordering
123 involuntary outpatient services under certain
124 circumstances; requiring the service provider to
125 document certain inquiries; requiring the managing
126 entity to document certain efforts; requiring a copy
127 of the court's order to be sent to the department and
128 managing entity; providing procedures for
129 modifications to such orders; amending s. 397.6971,
130 F.S.; establishing the requirements for an early
131 release from involuntary outpatient services; amending
132 s. 397.6975, F.S.; requiring the court to appoint
133 certain counsel; providing requirements for hearings
134 on petitions for continued involuntary outpatient
135 services; requiring notice of such hearings; amending
136 s. 397.6977, F.S.; conforming provisions to changes
137 made by the act; creating s. 397.6978, F.S.; providing
138 for the appointment of guardian advocates if an
139 individual is found incompetent to consent to
140 treatment; providing a list of persons prohibited from
141 being appointed as an individual's guardian advocate;
142 providing requirements for a facility requesting the
143 appointment of a guardian advocate; requiring a



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144 training course for guardian advocates; providing
145 requirements for the training course; providing
146 requirements for the prioritization of individuals to
147 be selected as guardian advocates; authorizing certain
148 guardian advocates to consent to medical treatment;
149 providing exceptions; providing procedures for the
150 discharge of a guardian advocate; amending ss. 39.407,
151 212.055, 394.4599, 394.495, 394.496, 394.9085,
152 397.405, 397.407, 397.416, 409.972, 440.102, 744.704,
153 and 790.065, F.S.; conforming cross-references;
154 providing an effective date.

155

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

157

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

160 29.004 State courts system.—For purposes of implementing s.
161 14, Art. V of the State Constitution, the elements of the state
162 courts system to be provided from state revenues appropriated by
163 general law are as follows:

164 (10) Case management. Case management includes:

165 (e) Service referral, coordination, monitoring, and
166 tracking for mental health programs under chapter 394.

167

168 Case management may not include costs associated with the
169 application of therapeutic jurisprudence principles by the
170 courts. Case management also may not include case intake and
171 records management conducted by the clerk of court.

172 Section 2. Subsection (6) of section 39.001, Florida



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173 Statutes, is amended to read:

174 39.001 Purposes and intent; personnel standards and
175 screening.—

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

177 (a) The Legislature recognizes that early referral and
178 comprehensive treatment can help combat mental illness and
179 substance abuse disorders in families and that treatment is
180 cost-effective.

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

184 1. To ensure the safety of children.

185 2. To prevent and remediate the consequences of mental
186 illness and substance abuse disorders on families involved in
187 protective supervision or foster care and reduce the occurrences
188 of mental illness and substance abuse disorders, including
189 alcohol abuse or other related disorders, for families who are
190 at risk of being involved in protective supervision or foster
191 care.

192 3. To expedite permanency for children and reunify healthy,
193 intact families, when appropriate.

194 4. To support families in recovery.

195 (c) The Legislature finds that children in the care of the
196 state's dependency system need appropriate health care services,
197 that the impact of mental illnesses and substance abuse on
198 health indicates the need for health care services to include
199 treatment for mental health and substance abuse disorders for
200 ~~services to~~ children and parents where appropriate, and that it
201 is in the state's best interest that such children be provided



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202 the services they need to enable them to become and remain
203 independent of state care. In order to provide these services,
204 the state's dependency system must have the ability to identify
205 and provide appropriate intervention and treatment for children
206 with personal or family-related mental illness and substance
207 abuse problems.

208 (d) It is the intent of the Legislature to encourage the
209 use of the mental health programs established under chapter 394
210 and the drug court program model established under ~~by~~ s. 397.334
211 and authorize courts to assess children and persons who have
212 custody or are requesting custody of children where good cause
213 is shown to identify and address mental illnesses and substance
214 abuse disorders ~~problems~~ as the court deems appropriate at every
215 stage of the dependency process. Participation in treatment,
216 including a treatment-based mental health court program or a
217 treatment-based drug court program, may be required by the court
218 following adjudication. Participation in assessment and
219 treatment before ~~prior to~~ adjudication is ~~shall be~~ voluntary,
220 except as provided in s. 39.407(16).

221 (e) It is therefore the purpose of the Legislature to
222 provide authority for the state to contract with mental health
223 service providers and community substance abuse treatment
224 providers for the development and operation of specialized
225 support and overlay services for the dependency system, which
226 will be fully implemented and used as resources permit.

227 (f) Participation in a treatment-based mental health court
228 program or a ~~the~~ treatment-based drug court program does not
229 divest any public or private agency of its responsibility for a
230 child or adult, but is intended to enable these agencies to



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231 better meet their needs through shared responsibility and
232 resources.

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

235 39.507 Adjudicatory hearings; orders of adjudication.—

236 (10) After an adjudication of dependency, or a finding of
237 dependency where adjudication is withheld, the court may order a
238 person who has custody or is requesting custody of the child to
239 submit to a mental health or substance abuse disorder assessment
240 or evaluation. The assessment or evaluation must be administered
241 by a qualified professional, as defined in s. 397.311. The court
242 may also require such person to participate in and comply with
243 treatment and services identified as necessary, including, when
244 appropriate and available, participation in and compliance with
245 a mental health program established under chapter 394 or a
246 treatment-based drug court program established under s. 397.334.
247 In addition to supervision by the department, the court,
248 including a treatment-based mental health court program or a ~~the~~
249 treatment-based drug court program, may oversee the progress and
250 compliance with treatment by a person who has custody or is
251 requesting custody of the child. The court may impose
252 appropriate available sanctions for noncompliance upon a person
253 who has custody or is requesting custody of the child or make a
254 finding of noncompliance for consideration in determining
255 whether an alternative placement of the child is in the child's
256 best interests. Any order entered under this subsection may be
257 made only upon good cause shown. This subsection does not
258 authorize placement of a child with a person seeking custody,
259 other than the parent or legal custodian, who requires mental



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260 health or substance abuse disorder treatment.

261 Section 4. Paragraph (b) of subsection (1) of section
262 39.521, Florida Statutes, is amended to read:

263 39.521 Disposition hearings; powers of disposition.—

264 (1) A disposition hearing shall be conducted by the court,
265 if the court finds that the facts alleged in the petition for
266 dependency were proven in the adjudicatory hearing, or if the
267 parents or legal custodians have consented to the finding of
268 dependency or admitted the allegations in the petition, have
269 failed to appear for the arraignment hearing after proper
270 notice, or have not been located despite a diligent search
271 having been conducted.

272 (b) When any child is adjudicated by a court to be
273 dependent, the court having jurisdiction of the child has the
274 power by order to:

275 1. Require the parent and, when appropriate, the legal
276 custodian and the child to participate in treatment and services
277 identified as necessary. The court may require the person who
278 has custody or who is requesting custody of the child to submit
279 to a mental illness or substance abuse disorder assessment or
280 evaluation. The assessment or evaluation must be administered by
281 a qualified professional, as defined in s. 397.311. The court
282 may also require such person to participate in and comply with
283 treatment and services identified as necessary, including, when
284 appropriate and available, participation in and compliance with
285 a mental health program established under chapter 394 or a
286 treatment-based drug court program established under s. 397.334.
287 In addition to supervision by the department, the court,
288 including a treatment-based mental health court program or a ~~the~~



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289 treatment-based drug court program, may oversee the progress and
290 compliance with treatment by a person who has custody or is
291 requesting custody of the child. The court may impose
292 appropriate available sanctions for noncompliance upon a person
293 who has custody or is requesting custody of the child or make a
294 finding of noncompliance for consideration in determining
295 whether an alternative placement of the child is in the child's
296 best interests. Any order entered under this subparagraph may be
297 made only upon good cause shown. This subparagraph does not
298 authorize placement of a child with a person seeking custody of
299 the child, other than the child's parent or legal custodian, who
300 requires mental health or substance abuse treatment.

301 2. Require, if the court deems necessary, the parties to
302 participate in dependency mediation.

303 3. Require placement of the child either under the
304 protective supervision of an authorized agent of the department
305 in the home of one or both of the child's parents or in the home
306 of a relative of the child or another adult approved by the
307 court, or in the custody of the department. Protective
308 supervision continues until the court terminates it or until the
309 child reaches the age of 18, whichever date is first. Protective
310 supervision shall be terminated by the court whenever the court
311 determines that permanency has been achieved for the child,
312 whether with a parent, another relative, or a legal custodian,
313 and that protective supervision is no longer needed. The
314 termination of supervision may be with or without retaining
315 jurisdiction, at the court's discretion, and shall in either
316 case be considered a permanency option for the child. The order
317 terminating supervision by the department must ~~shall~~ set forth



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318 the powers of the custodian of the child and ~~shall~~ include the
319 powers ordinarily granted to a guardian of the person of a minor
320 unless otherwise specified. Upon the court's termination of
321 supervision by the department, ~~no~~ further judicial reviews are
322 not required if, so long as permanency has been established for
323 the child.

324 Section 5. Section 394.455, Florida Statutes, is amended to
325 read:

326 394.455 Definitions.—As used in this part, ~~unless the~~
327 ~~context clearly requires otherwise,~~ the term:

328 (1) "Access center" means a facility staffed by medical,
329 behavioral, and substance abuse professionals which provides
330 emergency screening and evaluation for mental health or
331 substance abuse disorders and may provide transportation to an
332 appropriate facility if an individual is in need of more
333 intensive services.

334 (2) "Addictions receiving facility" means a secure, acute
335 care facility that, at a minimum, provides emergency screening,
336 evaluation, and short-term stabilization services; is operated
337 24 hours per day, 7 days per week; and is designated by the
338 department to serve individuals found to have substance abuse
339 impairment who qualify for services under this part.

340 (3) ~~(1)~~ "Administrator" means the chief administrative
341 officer of a receiving or treatment facility or his or her
342 designee.

343 (4) "Adult" means an individual who is 18 years of age or
344 older or who has had the disability of nonage removed under
345 chapter 743.

346 (5) "Advanced registered nurse practitioner" means any



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347 person licensed in this state to practice professional nursing
348 who is certified in advanced or specialized nursing practice
349 under s. 464.012.

350 (6)(2) "Clinical psychologist" means a psychologist as
351 defined in s. 490.003(7) with 3 years of postdoctoral experience
352 in the practice of clinical psychology, inclusive of the
353 experience required for licensure, or a psychologist employed by
354 a facility operated by the United States Department of Veterans
355 Affairs that qualifies as a receiving or treatment facility
356 under this part.

357 (7)(3) "Clinical record" means all parts of the record
358 required to be maintained and includes all medical records,
359 progress notes, charts, and admission and discharge data, and
360 all other information recorded by a facility staff which
361 pertains to the patient's hospitalization or treatment.

362 (8)(4) "Clinical social worker" means a person licensed as
363 a clinical social worker under s. 491.005 or s. 491.006 ~~chapter~~
364 ~~491~~.

365 (9)(5) "Community facility" means a any community service
366 provider that contracts ~~contracting~~ with the department to
367 furnish substance abuse or mental health services under part IV
368 of this chapter.

369 (10)(6) "Community mental health center or clinic" means a
370 publicly funded, not-for-profit center that ~~which~~ contracts with
371 the department for the provision of inpatient, outpatient, day
372 treatment, or emergency services.

373 (11)(7) "Court," unless otherwise specified, means the
374 circuit court.

375 (12)(8) "Department" means the Department of Children and



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376 Families.

377 (13) "Designated receiving facility" means a facility
378 approved by the department which may be a crisis stabilization
379 unit, addictions receiving facility and provides, at a minimum,
380 emergency screening, evaluation, and short-term stabilization
381 for mental health or substance abuse disorders, and which may
382 have an agreement with a corresponding facility for
383 transportation and services.

384 (14) "Detoxification facility" means a facility licensed to
385 provide detoxification services under chapter 397.

386 (15) "Electronic means" is a form of telecommunication
387 which requires all parties to maintain visual as well as audio
388 communication.

389 (16)~~(9)~~ "Express and informed consent" means consent
390 voluntarily given in writing, by a competent person, after
391 sufficient explanation and disclosure of the subject matter
392 involved to enable the person to make a knowing and willful
393 decision without any element of force, fraud, deceit, duress, or
394 other form of constraint or coercion.

395 (17)~~(10)~~ "Facility" means any hospital, community facility,
396 public or private facility, or receiving or treatment facility
397 providing for the evaluation, diagnosis, care, treatment,
398 training, or hospitalization of persons who appear to have a
399 ~~mental illness~~ or who have been diagnosed as having a mental
400 illness or substance abuse impairment. The term "Facility" does
401 not include a any program or an entity licensed under pursuant
402 ~~to~~ chapter 400 or chapter 429.

403 (18) "Governmental facility" means a facility owned,
404 operated, or administered by the Department of Corrections or



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405 the United States Department of Veterans Affairs.

406 (19)~~(11)~~ "Guardian" means the natural guardian of a minor,
407 or a person appointed by a court to act on behalf of a ward's
408 person if the ward is a minor or has been adjudicated
409 incapacitated.

410 (20)~~(12)~~ "Guardian advocate" means a person appointed by a
411 court to make decisions regarding mental health or substance
412 abuse treatment on behalf of a patient who has been found
413 incompetent to consent to treatment pursuant to this part. ~~The~~
414 ~~guardian advocate may be granted specific additional powers by~~
415 ~~written order of the court, as provided in this part.~~

416 (21)~~(13)~~ "Hospital" means a hospital facility ~~as defined in~~
417 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter
418 408.

419 (22)~~(14)~~ "Incapacitated" means that a person has been
420 adjudicated incapacitated pursuant to part V of chapter 744 and
421 a guardian of the person has been appointed.

422 (23)~~(15)~~ "Incompetent to consent to treatment" means a
423 state in which ~~that~~ a person's judgment is so affected by a his
424 ~~or her~~ mental illness, a substance abuse impairment, that he or
425 she ~~the person~~ lacks the capacity to make a well-reasoned,
426 willful, and knowing decision concerning his or her medical, ~~or~~
427 mental health, or substance abuse treatment.

428 (24) "Involuntary examination" means an examination
429 performed under s. 394.463 or s. 397.675 to determine whether a
430 person qualifies for involuntary outpatient services pursuant to
431 s. 394.4655 or involuntary inpatient placement.

432 (25) "Involuntary services" means court-ordered outpatient
433 services or inpatient placement for mental health treatment



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434 pursuant to s. 394.4655 or s. 394.467.

435 (26)-(16) "Law enforcement officer" has the same meaning as
436 provided means a law enforcement officer as defined in s.
437 943.10.

438 (27) "Marriage and family therapist" means a person
439 licensed to practice marriage and family therapy under s.
440 491.005 or s. 491.006.

441 (28) "Mental health counselor" means a person licensed to
442 practice mental health counseling under s. 491.005 or s.
443 491.006.

444 (29)-(17) "Mental health overlay program" means a mobile
445 service that ~~which~~ provides an independent examination for
446 voluntary ~~admission admissions~~ and a range of supplemental
447 onsite services to persons with a mental illness in a
448 residential setting such as a nursing home, an assisted living
449 facility, or an adult family-care home, or a nonresidential
450 setting such as an adult day care center. Independent
451 examinations provided ~~pursuant to this part~~ through a mental
452 health overlay program must only be provided under contract with
453 the department ~~for this service~~ or be attached to a public
454 receiving facility that is also a community mental health
455 center.

456 (30)-(18) "Mental illness" means an impairment of the mental
457 or emotional processes that exercise conscious control of one's
458 actions or of the ability to perceive or understand reality,
459 which impairment substantially interferes with the person's
460 ability to meet the ordinary demands of living. For the purposes
461 of this part, the term does not include a developmental
462 disability as defined in chapter 393, intoxication, or



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463 conditions manifested only by antisocial behavior or substance
464 abuse impairment.

465 (31) "Minor" means an individual who is 17 years of age or
466 younger and who has not had the disability of nonage removed
467 pursuant to s. 743.01 or s. 743.015.

468 (32)~~(19)~~ "Mobile crisis response service" means a
469 nonresidential crisis service ~~attached to a public receiving~~
470 ~~facility and~~ available 24 hours a day, 7 days a week, ~~through~~
471 which provides immediate intensive assessments and
472 interventions, including screening for admission into a mental
473 health receiving facility, an addictions receiving facility, or
474 a detoxification facility, take place for the purpose of
475 identifying appropriate treatment services.

476 (33)~~(20)~~ "Patient" means any person who is held or accepted
477 for mental health or substance abuse treatment.

478 (34)~~(21)~~ "Physician" means a medical practitioner licensed
479 under chapter 458 or chapter 459 ~~who has experience in the~~
480 ~~diagnosis and treatment of mental and nervous disorders~~ or a
481 physician employed by a facility operated by the United States
482 Department of Veterans Affairs or the United States Department
483 of Defense which qualifies as a receiving or treatment facility
484 ~~under this part.~~

485 (35) "Physician assistant" means a person licensed under
486 chapter 458 or chapter 459 who has experience in the diagnosis
487 and treatment of mental disorders.

488 (36)~~(22)~~ "Private facility" means any hospital or facility
489 operated by a for-profit or not-for-profit corporation or
490 association which ~~that~~ provides mental health or substance abuse
491 services and is not a public facility.



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492 ~~(37)(23)~~ "Psychiatric nurse" means an advanced registered
493 nurse practitioner certified under s. 464.012 who has a master's
494 or doctoral degree in psychiatric nursing, holds a national
495 advanced practice certification as a psychiatric mental health
496 advanced practice nurse, and has 2 years of post-master's
497 clinical experience under the supervision of a physician.

498 ~~(38)(24)~~ "Psychiatrist" means a medical practitioner
499 licensed under chapter 458 or chapter 459 ~~who has primarily~~
500 ~~diagnosed and treated mental and nervous disorders for at least~~
501 ~~a period of not less than 3 years, inclusive of psychiatric~~
502 residency.

503 ~~(39)(25)~~ "Public facility" means a ~~any~~ facility that has
504 contracted with the department to provide mental health or
505 substance abuse services to all persons, regardless of ~~their~~
506 ability to pay, and is receiving state funds for such purpose.

507 (40) "Qualified professional" means a physician or a
508 physician assistant licensed under chapter 458 or chapter 459; a
509 professional licensed under chapter 490.003(7) or chapter 491; a
510 psychiatrist licensed under chapter 458 or chapter 459; or a
511 psychiatric nurse as defined in subsection (37).

512 ~~(41)(26)~~ "Receiving facility" means any public or private
513 facility designated by the department to receive and hold or
514 refer, as appropriate, involuntary patients under emergency
515 conditions ~~or~~ for mental health or substance abuse psychiatric
516 evaluation and to provide short-term treatment or transportation
517 to the appropriate service provider. The term does not include a
518 county jail.

519 ~~(42)(27)~~ "Representative" means a person selected to
520 receive notice of proceedings during the time a patient is held



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521 in or admitted to a receiving or treatment facility.

522 ~~(43)(28)(a) "Restraint" means: a physical device, method,~~
523 ~~or drug used to control behavior.~~

524 (a) A physical restraint, including is any manual method or
525 physical or mechanical device, material, or equipment attached
526 or adjacent to an the individual's body so that he or she cannot
527 easily remove the restraint and which restricts freedom of
528 movement or normal access to one's body. Physical restraint
529 includes the physical holding of a person during a procedure to
530 forcibly administer psychotropic medication. Physical restraint
531 does not include physical devices such as orthopedically
532 prescribed appliances, surgical dressings and bandages,
533 supportive body bands, or other physical holding when necessary
534 for routine physical examinations and tests or for purposes of
535 orthopedic, surgical, or other similar medical treatment, when
536 used to provide support for the achievement of functional body
537 position or proper balance, or when used to protect a person
538 from falling out of bed.

539 ~~(b) A drug or used as a restraint is a medication used to~~
540 ~~control a the person's behavior or to restrict his or her~~
541 ~~freedom of movement which and is not part of the standard~~
542 ~~treatment regimen of a person with a diagnosed mental illness~~
543 ~~who is a client of the department. Physically holding a person~~
544 ~~during a procedure to forcibly administer psychotropic~~
545 ~~medication is a physical restraint.~~

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



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

554 (44) "School psychologist" has the same meaning as in s.
555 490.003.

556 (45)~~(29)~~ "Seclusion" means the physical segregation ~~of a~~
557 ~~person in any fashion~~ or involuntary isolation of a person in a
558 room or area from which the person is prevented from leaving.
559 The prevention may be by physical barrier or by a staff member
560 who is acting in a manner, or who is physically situated, so as
561 to prevent the person from leaving the room or area. For
562 purposes of this part ~~chapter~~, the term does not mean isolation
563 due to a person's medical condition or symptoms.

564 (46)~~(30)~~ "Secretary" means the Secretary of Children and
565 Families.

566 (47) "Service provider" means a receiving facility, any
567 facility licensed under chapter 397, a treatment facility, an
568 entity under contract with the department to provide mental
569 health or substance abuse services, a community mental health
570 center or clinic, a psychologist, a clinical social worker, a
571 marriage and family therapist, a mental health counselor, a
572 physician, a psychiatrist, an advanced registered nurse
573 practitioner, a psychiatric nurse, or a qualified professional
574 as defined in this section.

575 (48) "Substance abuse impairment" means a condition
576 involving the use of alcoholic beverages or any psychoactive or
577 mood-altering substance in such a manner that a person has lost
578 the power of self-control and has inflicted or is likely to



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579 inflict physical harm on himself or herself or others.

580 ~~(49)(31)~~ "Transfer evaluation" means the process by which,
581 ~~as approved by the appropriate district office of the~~
582 ~~department, whereby~~ a person who is being considered for
583 placement in a state treatment facility is ~~first~~ evaluated for
584 appropriateness of admission to a state treatment ~~the~~ facility
585 ~~by a community-based public receiving facility or by a community~~
586 ~~mental health center or clinic if the public receiving facility~~
587 ~~is not a community mental health center or clinic.~~

588 ~~(50)(32)~~ "Treatment facility" means a any state-owned,
589 state-operated, or state-supported hospital, center, or clinic
590 designated by the department for extended treatment and
591 hospitalization, beyond that provided for by a receiving
592 facility, of persons who have a mental illness, including
593 facilities of the United States Government, and any private
594 facility designated by the department when rendering such
595 services to a person pursuant to the provisions of this part.
596 Patients treated in facilities of the United States Government
597 shall be solely those whose care is the responsibility of the
598 United States Department of Veterans Affairs.

599 ~~(51)~~ "Triage center" means a facility that is approved by
600 the department and has medical, behavioral, and substance abuse
601 professionals present or on call to provide emergency screening
602 and evaluation of individuals transported to the center by a law
603 enforcement officer.

604 ~~(33)~~ "Service provider" means ~~any public or private~~
605 ~~receiving facility, an entity under contract with the Department~~
606 ~~of Children and Families to provide mental health services, a~~
607 ~~clinical psychologist, a clinical social worker, a marriage and~~



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608 ~~family therapist, a mental health counselor, a physician, a~~
609 ~~psychiatric nurse as defined in subsection (23), or a community~~
610 ~~mental health center or clinic as defined in this part.~~

611 ~~(34) "Involuntary examination" means an examination~~
612 ~~performed under s. 394.463 to determine if an individual~~
613 ~~qualifies for involuntary inpatient treatment under s.~~
614 ~~394.467(1) or involuntary outpatient treatment under s.~~
615 ~~394.4655(1).~~

616 ~~(35) "Involuntary placement" means either involuntary~~
617 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
618 ~~inpatient treatment pursuant to s. 394.467.~~

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

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

623 ~~(38) "Electronic means" means a form of telecommunication~~
624 ~~that requires all parties to maintain visual as well as audio~~
625 ~~communication.~~

626 Section 6. Section 394.4573, Florida Statutes, is amended
627 to read:

628 394.4573 Coordinated system of care; annual assessment;
629 essential elements ~~Continuity of care management system;~~
630 measures of performance; system improvement grants; reports.—On
631 or before October 1 of each year, the department shall submit to
632 the Governor, the President of the Senate, and the Speaker of
633 the House of Representatives an assessment of the behavioral
634 health services in this state in the context of the No-Wrong-
635 Door model and standards set forth in this section. The
636 department's assessment shall be based on both quantitative and



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637 qualitative data and must identify any significant regional
638 variations. The assessment must include information gathered
639 from managing entities, service providers, law enforcement,
640 judicial officials, local governments, behavioral health
641 consumers and their family members, and the public.

642 (1) As used in ~~For the purposes of~~ this section:

643 (a) "Case management" means those direct services provided
644 to a client in order to assess his or her activities aimed at
645 assessing client needs, plan or arrange planning services,
646 coordinate service providers, monitor linking the service system
647 to a client, coordinating the various system components,
648 monitoring service delivery, and evaluate patient outcomes
649 evaluating the effect of service delivery.

650 (b) "Case manager" means an individual who works with
651 clients, and their families and significant others, to provide
652 case management.

653 (c) "Client manager" means an employee of the managing
654 entity or entity under contract with the managing entity
655 department who is assigned to specific provider agencies and
656 geographic areas to ensure that the full range of needed
657 services is available to clients.

658 (d) "Coordinated system ~~Continuity of care management~~
659 ~~system~~" means ~~a system that assures, within available resources,~~
660 ~~that clients have access to the full array of~~ behavioral and
661 related services in a region or community offered by all service
662 providers, whether participating under contract with the
663 managing entity or another method of community partnership or
664 mutual agreement ~~within the mental health services delivery~~
665 ~~system.~~



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666 (e) "No-Wrong-Door model" means a model for the delivery of
667 health care services to persons who have mental health or
668 substance abuse disorders, or both, which optimizes access to
669 care, regardless of the entry point to the behavioral health
670 care system.

671 (2) The essential elements of a coordinated system of care
672 include:

673 (a) Community interventions, such as prevention, primary
674 care for behavioral health needs, therapeutic and supportive
675 services, crisis response services, and diversion programs.

676 (b) A designated receiving system consisting of one or more
677 facilities serving a defined geographic area and responsible for
678 assessment and evaluation, both voluntary and involuntary, and
679 treatment or triage for patients who present with mental
680 illness, substance abuse disorder, or co-occurring disorders.

681 The system must be approved by each county or by several
682 counties, planned through an inclusive process, approved by the
683 managing entity, and documented through written memoranda of
684 agreement or other binding arrangements. The designated
685 receiving system may be organized in any of the following ways
686 so long as it functions as a No-Wrong-Door model that responds
687 to individual needs and integrates services among various
688 providers:

689 1. A central receiving system, which consists of a
690 designated central receiving facility that serves as a single
691 entry point for persons with mental health or substance abuse
692 disorders, or both. The designated receiving facility must be
693 capable of assessment, evaluation, and triage or treatment for
694 various conditions and circumstances.



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695 2. A coordinated receiving system, which consists of
696 multiple entry points that are linked by shared data systems,
697 formal referral agreements, and cooperative arrangements for
698 care coordination and case management. Each entry point must be
699 a designated receiving facility and must provide or arrange for
700 necessary services following an initial assessment and
701 evaluation.

702 3. A tiered receiving system, which consists of multiple
703 entry points, some of which offer only specialized or limited
704 services. Each service provider must be classified according to
705 its capabilities as either a designated receiving facility, or
706 another type of service provider such as a triage center, or an
707 access center. All participating service providers must be
708 linked by methods to share data that are compliant with both
709 state and federal patient privacy laws, formal referral
710 agreements, and cooperative arrangements for care coordination
711 and case management. An accurate inventory of the participating
712 service providers which specifies the capabilities and
713 limitations of each provider must be maintained and made
714 available at all times to all first responders in the service
715 area.

716 (c) Transportation in accordance with a plan developed
717 under s. 394.462.

718 (d) Crisis services, including mobile response teams,
719 crisis stabilization units, addiction receiving facilities, and
720 detoxification facilities.

721 (e) Case management, including intensive case management
722 for individuals determined to be high-need or high-utilization
723 individuals under s. 394.9082(2)(e).



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- 724 (f) Outpatient services.
725 (g) Residential services.
726 (h) Hospital inpatient care.
727 (i) Aftercare and other post-discharge services.
728 (j) Medication Assisted Treatment and medication
729 management.
730 (k) Recovery support, including housing assistance and
731 support for competitive employment, educational attainment,
732 independent living skills development, family support and
733 education, and wellness management and self-care.
734 (3) The department's annual assessment must compare the
735 status and performance of the extant behavioral health system
736 with the following standards and any other standards or measures
737 that the department determines to be applicable.
738 (a) The capacity of the contracted service providers to
739 meet estimated need when such estimates are based on credible
740 evidence and sound methodologies.
741 (b) The extent to which the behavioral health system uses
742 evidence-informed practices and broadly disseminates the results
743 of quality improvement activities to all service providers.
744 (c) The degree to which services are offered in the least
745 restrictive and most appropriate therapeutic environment.
746 (d) The scope of systemwide accountability activities used
747 to monitor patient outcomes and measure continuous improvement
748 in the behavioral health system.
749 (4) Subject to a specific appropriation by the Legislature,
750 the department may award system improvement grants to managing
751 entities based on the submission of a detailed plan to enhance
752 services, coordination, or performance measurement in accordance



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753 with the model and standards specified in this section. Such a
754 grant must be awarded through a performance-based contract that
755 links payments to the documented and measurable achievement of
756 system improvements ~~The department is directed to implement a~~
757 ~~continuity of care management system for the provision of mental~~
758 ~~health care, through the provision of client and case~~
759 ~~management, including clients referred from state treatment~~
760 ~~facilities to community mental health facilities. Such system~~
761 ~~shall include a network of client managers and case managers~~
762 ~~throughout the state designed to:~~

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

765 ~~(b) Provide for the creation or designation of an agency in~~
766 ~~each county to provide single intake services for each person~~
767 ~~seeking mental health services. Such agency shall provide~~
768 ~~information and referral services necessary to ensure that~~
769 ~~clients receive the most appropriate and least restrictive form~~
770 ~~of care, based on the individual needs of the person seeking~~
771 ~~treatment. Such agency shall have a single telephone number,~~
772 ~~operating 24 hours per day, 7 days per week, where practicable,~~
773 ~~at a central location, where each client will have a central~~
774 ~~record.~~

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

778 ~~(d) Require that any public receiving facility initiating a~~
779 ~~patient transfer to a licensed hospital for acute care mental~~
780 ~~health services not accessible through the public receiving~~
781 ~~facility shall notify the hospital of such transfer and send all~~



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782 ~~records relating to the emergency psychiatric or medical~~
783 ~~condition.~~

784 ~~(3) The department is directed to develop and include in~~
785 ~~contracts with service providers measures of performance with~~
786 ~~regard to goals and objectives as specified in the state plan.~~
787 ~~Such measures shall use, to the extent practical, existing data~~
788 ~~collection methods and reports and shall not require, as a~~
789 ~~result of this subsection, additional reports on the part of~~
790 ~~service providers. The department shall plan monitoring visits~~
791 ~~of community mental health facilities with other state, federal,~~
792 ~~and local governmental and private agencies charged with~~
793 ~~monitoring such facilities.~~

794 Section 7. Paragraphs (d) and (e) of subsection (2) of
795 section 394.4597, Florida Statutes, are amended to read:

796 394.4597 Persons to be notified; patient's representative.—

797 (2) INVOLUNTARY PATIENTS.—

798 (d) When the receiving or treatment facility selects a
799 representative, first preference shall be given to a health care
800 surrogate, if one has been previously selected by the patient.
801 If the patient has not previously selected a health care
802 surrogate, the selection, except for good cause documented in
803 the patient's clinical record, shall be made from the following
804 list in the order of listing:

- 805 1. The patient's spouse.
- 806 2. An adult child of the patient.
- 807 3. A parent of the patient.
- 808 4. The adult next of kin of the patient.
- 809 5. An adult friend of the patient.
- 810 ~~6. The appropriate Florida local advocacy council as~~



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811 ~~provided in s. 402.166.~~

812 (e) The following persons are prohibited from selection as
813 a patient's representative:

814 1. A professional providing clinical services to the
815 patient under this part.

816 2. The licensed professional who initiated the involuntary
817 examination of the patient, if the examination was initiated by
818 professional certificate.

819 3. An employee, an administrator, or a board member of the
820 facility providing the examination of the patient.

821 4. An employee, an administrator, or a board member of a
822 treatment facility providing treatment for the patient.

823 5. A person providing any substantial professional services
824 to the patient, including clinical services.

825 6. A creditor of the patient.

826 7. A person subject to an injunction for protection against
827 domestic violence under s. 741.30, whether the order of
828 injunction is temporary or final, and for which the patient was
829 the petitioner.

830 8. A person subject to an injunction for protection against
831 repeat violence, sexual violence, or dating violence under s.
832 784.046, whether the order of injunction is temporary or final,
833 and for which the patient was the petitioner ~~A licensed~~
834 ~~professional providing services to the patient under this part,~~
835 ~~an employee of a facility providing direct services to the~~
836 ~~patient under this part, a department employee, a person~~
837 ~~providing other substantial services to the patient in a~~
838 ~~professional or business capacity, or a creditor of the patient~~
839 ~~shall not be appointed as the patient's representative.~~



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840 Section 8. Present subsections (2) through (7) of section
841 394.4598, Florida Statutes, are redesignated as subsections (3)
842 through (8), respectively, a new subsection (2) is added to that
843 section, and present subsections (3) and (4) of that section are
844 amended, to read:

845 394.4598 Guardian advocate.—

846 (2) The following persons are prohibited from appointment
847 as a patient's guardian advocate:

848 (a) A professional providing clinical services to the
849 patient under this part.

850 (b) The licensed professional who initiated the involuntary
851 examination of the patient, if the examination was initiated by
852 professional certificate.

853 (c) An employee, an administrator, or a board member of the
854 facility providing the examination of the patient.

855 (d) An employee, an administrator, or a board member of a
856 treatment facility providing treatment of the patient.

857 (e) A person providing any substantial professional
858 services to the patient, including clinical services.

859 (f) A creditor of the patient.

860 (g) A person subject to an injunction for protection
861 against domestic violence under s. 741.30, whether the order of
862 injunction is temporary or final, and for which the patient was
863 the petitioner.

864 (h) A person subject to an injunction for protection
865 against repeat violence, sexual violence, or dating violence
866 under s. 784.046, whether the order of injunction is temporary
867 or final, and for which the patient was the petitioner.

868 (4)~~(3)~~ In lieu of the training required of guardians



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869 appointed pursuant to chapter 744, ~~Prior to~~ a guardian advocate
870 must, at a minimum, participate in a 4-hour training course
871 approved by the court before exercising his or her authority,
872 ~~the guardian advocate shall attend a training course approved by~~
873 ~~the court. At a minimum,~~ this training course, ~~of not less than~~
874 ~~4 hours,~~ must include, ~~at minimum,~~ information about the patient
875 rights, psychotropic medications, the diagnosis of mental
876 illness, the ethics of medical decisionmaking, and duties of
877 guardian advocates. ~~This training course shall take the place of~~
878 ~~the training required for guardians appointed pursuant to~~
879 ~~chapter 744.~~

880 (5)(4) The required training course and the information to
881 be supplied to prospective guardian advocates before ~~prior to~~
882 ~~their appointment and the training course for guardian advocates~~
883 ~~must be developed and completed through a course developed by~~
884 ~~the department,~~ and approved by the chief judge of the circuit
885 ~~court,~~ and taught by a court-approved organization, which-
886 ~~Court-approved organizations~~ may include, but is ~~are~~ not limited
887 to, a community college ~~community or junior colleges,~~ a
888 guardianship organization ~~guardianship organizations,~~ a ~~and~~ the
889 local bar association, or The Florida Bar. The training course
890 may be web-based, provided in video format, or other electronic
891 means but must be capable of ensuring the identity and
892 participation of the prospective guardian advocate. The court
893 ~~may, in its discretion,~~ waive some or all of the training
894 requirements for guardian advocates or impose additional
895 requirements. The court shall make its decision on a case-by-
896 case basis and, in making its decision, shall consider the
897 experience and education of the guardian advocate, the duties



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898 assigned to the guardian advocate, and the needs of the patient.

899 Section 9. Section 394.462, Florida Statutes, is amended to
900 read:

901 394.462 Transportation.—A transportation plan must be
902 developed and implemented by each county in accordance with this
903 section. A county may enter into a memorandum of understanding
904 with the governing boards of nearby counties to establish a
905 shared transportation plan. When multiple counties enter into a
906 memorandum of understanding for this purpose, the managing
907 entity must be notified and provided a copy of the agreement.
908 The transportation plan must describe methods of transport to a
909 facility within the designated receiving system and may identify
910 responsibility for other transportation to a participating
911 facility when necessary and agreed to by the facility. The plan
912 must ensure that individuals who meet the criteria for
913 involuntary assessment and evaluation pursuant to ss. 394.463
914 and 397.675 will be transported. The plan may rely on emergency
915 medical transport services or private transport companies as
916 appropriate.

917 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

918 (a) Each county shall designate a single law enforcement
919 agency within the county, or portions thereof, to take a person
920 into custody upon the entry of an ex parte order or the
921 execution of a certificate for involuntary examination by an
922 authorized professional and to transport that person to an
923 appropriate facility within the designated receiving system ~~the~~
924 ~~nearest receiving facility~~ for examination.

925 (b)1. The designated law enforcement agency may decline to
926 transport the person to a receiving facility only if:



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927 ~~a.1.~~ The jurisdiction designated by the county has
928 contracted on an annual basis with an emergency medical
929 transport service or private transport company for
930 transportation of persons to receiving facilities pursuant to
931 this section at the sole cost of the county; and

932 ~~b.2.~~ The law enforcement agency and the emergency medical
933 transport service or private transport company agree that the
934 continued presence of law enforcement personnel is not necessary
935 for the safety of the person or others.

936 ~~2.3.~~ The entity providing transportation jurisdiction
937 ~~designated by the county~~ may seek reimbursement for
938 transportation expenses. The party responsible for payment for
939 such transportation is the person receiving the transportation.
940 The county shall seek reimbursement from the following sources
941 in the following order:

942 a. From a private or public third-party payor ~~an insurance~~
943 ~~company, health care corporation, or other source~~, if the person
944 receiving the transportation has applicable coverage ~~is covered~~
945 ~~by an insurance policy or subscribes to a health care~~
946 ~~corporation or other source for payment of such expenses.~~

947 b. From the person receiving the transportation.

948 c. From a financial settlement for medical care, treatment,
949 hospitalization, or transportation payable or accruing to the
950 injured party.

951 ~~(c)-(b)~~ A ~~Any~~ company that transports a patient pursuant to
952 this subsection is considered an independent contractor and is
953 solely liable for the safe and dignified transport
954 ~~transportation~~ of the patient. Such company must be insured and
955 provide no less than \$100,000 in liability insurance with



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956 respect to the transport ~~transportation~~ of patients.

957 (d) ~~(e)~~ Any company that contracts with a governing board of
958 a county to transport patients shall comply with the applicable
959 rules of the department to ensure the safety and dignity of ~~the~~
960 patients.

961 (e) ~~(d)~~ When a law enforcement officer takes custody of a
962 person pursuant to this part, the officer may request assistance
963 from emergency medical personnel if such assistance is needed
964 for the safety of the officer or the person in custody.

965 (f) ~~(e)~~ When a member of a mental health overlay program or
966 a mobile crisis response service is a professional authorized to
967 initiate an involuntary examination pursuant to s. 394.463 or s.
968 397.675 and that professional evaluates a person and determines
969 that transportation to a receiving facility is needed, the
970 service, at its discretion, may transport the person to the
971 facility or may call on the law enforcement agency or other
972 transportation arrangement best suited to the needs of the
973 patient.

974 (g) ~~(f)~~ When any law enforcement officer has custody of a
975 person based on either noncriminal or minor criminal behavior
976 that meets the statutory guidelines for involuntary examination
977 under this part, the law enforcement officer shall transport the
978 person to an appropriate ~~the nearest receiving~~ facility within
979 the designated receiving system for examination.

980 (h) ~~(g)~~ When any law enforcement officer has arrested a
981 person for a felony and it appears that the person meets the
982 statutory guidelines for involuntary examination or placement
983 under this part, such person must ~~shall~~ first be processed in
984 the same manner as any other criminal suspect. The law



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985 enforcement agency shall thereafter immediately notify the
986 appropriate nearest public receiving facility within the
987 designated receiving system, which shall be responsible for
988 promptly arranging for the examination and treatment of the
989 person. A receiving facility is not required to admit a person
990 charged with a crime for whom the facility determines and
991 documents that it is unable to provide adequate security, but
992 shall provide ~~mental health~~ examination and treatment to the
993 person where he or she is held.

994 (i)~~(h)~~ If the appropriate law enforcement officer believes
995 that a person has an emergency medical condition as defined in
996 s. 395.002, the person may be first transported to a hospital
997 for emergency medical treatment, regardless of whether the
998 hospital is a designated receiving facility.

999 (j)~~(i)~~ The costs of transportation, evaluation,
1000 hospitalization, and treatment incurred under this subsection by
1001 persons who have been arrested for violations of any state law
1002 or county or municipal ordinance may be recovered as provided in
1003 s. 901.35.

1004 (k)~~(j)~~ The ~~nearest receiving~~ facility within the designated
1005 receiving system must accept, pursuant to this part, persons
1006 brought by law enforcement officers, an emergency medical
1007 transport service, or a private transport company for
1008 involuntary examination.

1009 (l)~~(k)~~ Each law enforcement agency designated pursuant to
1010 paragraph (a) shall establish a policy that ~~develop a memorandum~~
1011 ~~of understanding with each receiving facility within the law~~
1012 ~~enforcement agency's jurisdiction which~~ reflects a single set of
1013 protocols approved by the managing entity for the safe and



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1014 secure transportation ~~of the person~~ and transfer of custody of
1015 the person. ~~These protocols must also address crisis~~
1016 ~~intervention measures.~~

1017 (m) ~~(l)~~ When a jurisdiction has entered into a contract with
1018 an emergency medical transport service or a private transport
1019 company for transportation of persons to ~~receiving~~ facilities
1020 within the designated receiving system, such service or company
1021 shall be given preference for transportation of persons from
1022 nursing homes, assisted living facilities, adult day care
1023 centers, or adult family-care homes, unless the behavior of the
1024 person being transported is such that transportation by a law
1025 enforcement officer is necessary.

1026 (n) ~~(m)~~ ~~Nothing in~~ This section may not ~~shall~~ be construed
1027 to limit emergency examination and treatment of incapacitated
1028 persons provided in accordance with ~~the provisions of~~ s.
1029 401.445.

1030 (2) TRANSPORTATION TO A TREATMENT FACILITY.-

1031 (a) If neither the patient nor any person legally obligated
1032 or responsible for the patient is able to pay for the expense of
1033 transporting a voluntary or involuntary patient to a treatment
1034 facility, the transportation plan established by the governing
1035 board of the county or counties must specify how in which the
1036 hospitalized patient will be transported to, from, and between
1037 facilities in a ~~is hospitalized shall arrange for such required~~
1038 ~~transportation and shall ensure the safe and dignified manner~~
1039 ~~transportation of the patient. The governing board of each~~
1040 ~~county is authorized to contract with private transport~~
1041 ~~companies for the transportation of such patients to and from a~~
1042 ~~treatment facility.~~



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1043 (b) ~~A~~ Any company that transports a patient pursuant to
1044 this subsection is considered an independent contractor and is
1045 solely liable for the safe and dignified transportation of the
1046 patient. Such company must be insured and provide no less than
1047 \$100,000 in liability insurance with respect to the transport
1048 ~~transportation~~ of patients.

1049 (c) ~~A~~ Any company that contracts with one or more counties
1050 ~~the governing board of a county~~ to transport patients in
1051 accordance with this section shall comply with the applicable
1052 rules of the department to ensure the safety and dignity of ~~the~~
1053 patients.

1054 (d) County or municipal law enforcement and correctional
1055 personnel and equipment may ~~shall~~ not be used to transport
1056 patients adjudicated incapacitated or found by the court to meet
1057 the criteria for involuntary placement pursuant to s. 394.467,
1058 except in small rural counties where there are no cost-efficient
1059 alternatives.

1060 (3) TRANSFER OF CUSTODY.—Custody of a person who is
1061 transported pursuant to this part, along with related
1062 documentation, shall be relinquished to a responsible individual
1063 at the appropriate receiving or treatment facility.

1064 ~~(4) EXCEPTIONS. An exception to the requirements of this~~
1065 ~~section may be granted by the secretary of the department for~~
1066 ~~the purposes of improving service coordination or better meeting~~
1067 ~~the special needs of individuals. A proposal for an exception~~
1068 ~~must be submitted by the district administrator after being~~
1069 ~~approved by the governing boards of any affected counties, prior~~
1070 ~~to submission to the secretary.~~

1071 ~~(a) A proposal for an exception must identify the specific~~



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1072 ~~provision from which an exception is requested; describe how the~~
1073 ~~proposal will be implemented by participating law enforcement~~
1074 ~~agencies and transportation authorities; and provide a plan for~~
1075 ~~the coordination of services such as case management.~~

1076 ~~(b) The exception may be granted only for:~~

1077 ~~1. An arrangement centralizing and improving the provision~~
1078 ~~of services within a district, which may include an exception to~~
1079 ~~the requirement for transportation to the nearest receiving~~
1080 ~~facility;~~

1081 ~~2. An arrangement by which a facility may provide, in~~
1082 ~~addition to required psychiatric services, an environment and~~
1083 ~~services which are uniquely tailored to the needs of an~~
1084 ~~identified group of persons with special needs, such as persons~~
1085 ~~with hearing impairments or visual impairments, or elderly~~
1086 ~~persons with physical frailties; or~~

1087 ~~3. A specialized transportation system that provides an~~
1088 ~~efficient and humane method of transporting patients to~~
1089 ~~receiving facilities, among receiving facilities, and to~~
1090 ~~treatment facilities.~~

1091 ~~(c) Any exception approved pursuant to this subsection~~
1092 ~~shall be reviewed and approved every 5 years by the secretary.~~

1093 Section 10. Subsection (2) of section 394.463, Florida
1094 Statutes, is amended to read:

1095 394.463 Involuntary examination.-

1096 (2) INVOLUNTARY EXAMINATION.-

1097 (a) An involuntary examination may be initiated by any one
1098 of the following means:

1099 1. A circuit or county court may enter an ex parte order
1100 stating that a person appears to meet the criteria for



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1101 involuntary examination and specifying,~~giving~~ the findings on
1102 which that conclusion is based. The ex parte order for
1103 involuntary examination must be based on written or oral sworn
1104 testimony that includes specific facts that support the
1105 findings,~~written or oral~~. If other, less restrictive, means are
1106 not available, such as voluntary appearance for outpatient
1107 evaluation, a law enforcement officer, or other designated agent
1108 of the court, shall take the person into custody and deliver him
1109 or her to an appropriate ~~the nearest receiving~~ facility within
1110 the designated receiving system for involuntary examination. The
1111 order of the court shall be made a part of the patient's
1112 clinical record. A ~~No~~ fee may not ~~shall~~ be charged for the
1113 filing of an order under this subsection. Any ~~receiving~~ facility
1114 accepting the patient based on this order must send a copy of
1115 the order to the managing entity in the region ~~Agency for Health~~
1116 ~~Care Administration~~ on the next working day. The order may be
1117 submitted electronically through existing data systems, if
1118 available. The order shall be valid only until the person is
1119 delivered to the appropriate facility ~~executed~~ or, ~~if not~~
1120 ~~executed,~~ for the period specified in the order itself,
1121 whichever comes first. If no time limit is specified in the
1122 order, the order shall be valid for 7 days after the date that
1123 the order was signed.

1124 2. A law enforcement officer shall take a person who
1125 appears to meet the criteria for involuntary examination into
1126 custody and deliver the person or have him or her delivered to
1127 the appropriate ~~nearest receiving~~ facility within the designated
1128 receiving system for examination. The officer shall execute a
1129 written report detailing the circumstances under which the



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1130 person was taken into custody, which must ~~and the report shall~~
1131 be made a part of the patient's clinical record. Any ~~receiving~~
1132 facility accepting the patient based on this report must send a
1133 copy of the report to the department and the managing entity
1134 ~~Agency for Health Care Administration~~ on the next working day.

1135 3. A physician, clinical psychologist, psychiatric nurse
1136 practitioner, mental health counselor, marriage and family
1137 therapist, or clinical social worker may execute a certificate
1138 stating that he or she has examined a person within the
1139 preceding 48 hours and finds that the person appears to meet the
1140 criteria for involuntary examination and stating the
1141 observations upon which that conclusion is based. If other, less
1142 restrictive means, such as voluntary appearance for outpatient
1143 evaluation, are not available, ~~such as voluntary appearance for~~
1144 ~~outpatient evaluation,~~ a law enforcement officer shall take into
1145 custody the person named in the certificate ~~into custody~~ and
1146 deliver him or her to the appropriate nearest receiving facility
1147 within the designated receiving system for involuntary
1148 examination. The law enforcement officer shall execute a written
1149 report detailing the circumstances under which the person was
1150 taken into custody. The report and certificate shall be made a
1151 part of the patient's clinical record. Any ~~receiving~~ facility
1152 accepting the patient based on this certificate must send a copy
1153 of the certificate to the managing entity ~~Agency for Health Care~~
1154 ~~Administration~~ on the next working day. The document may be
1155 submitted electronically through existing data systems, if
1156 applicable.

1157 (b) A person may ~~shall~~ not be removed from any program or
1158 residential placement licensed under chapter 400 or chapter 429



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1159 and transported to a receiving facility for involuntary
1160 examination unless an ex parte order, a professional
1161 certificate, or a law enforcement officer's report is first
1162 prepared. If the condition of the person is such that
1163 preparation of a law enforcement officer's report is not
1164 practicable before removal, the report shall be completed as
1165 soon as possible after removal, but in any case before the
1166 person is transported to a receiving facility. A ~~receiving~~
1167 facility admitting a person for involuntary examination who is
1168 not accompanied by the required ex parte order, professional
1169 certificate, or law enforcement officer's report shall notify
1170 the managing entity ~~Agency for Health Care Administration~~ of
1171 such admission by certified mail or by e-mail, if available, by
1172 ~~no later than~~ the next working day. The provisions of this
1173 paragraph do not apply when transportation is provided by the
1174 patient's family or guardian.

1175 (c) A law enforcement officer acting in accordance with an
1176 ex parte order issued pursuant to this subsection may serve and
1177 execute such order on any day of the week, at any time of the
1178 day or night.

1179 (d) A law enforcement officer acting in accordance with an
1180 ex parte order issued pursuant to this subsection may use such
1181 reasonable physical force as is necessary to gain entry to the
1182 premises, and any dwellings, buildings, or other structures
1183 located on the premises, and to take custody of the person who
1184 is the subject of the ex parte order.

1185 (e) The managing entity and the department ~~Agency for~~
1186 ~~Health Care Administration~~ shall receive and maintain the copies
1187 of ex parte petitions and orders, involuntary outpatient



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1188 ~~services placement~~ orders issued pursuant to s. 394.4655,
1189 involuntary inpatient placement orders issued pursuant to s.
1190 394.467, professional certificates, and law enforcement
1191 officers' reports. These documents shall be considered part of
1192 the clinical record, governed by the provisions of s. 394.4615.
1193 These documents shall be provided by the department to the
1194 Agency for Health Care Administration and used by the agency to
1195 ~~The agency shall~~ prepare annual reports analyzing the data
1196 obtained from these documents, without information identifying
1197 patients, and shall provide copies of reports to the department,
1198 the President of the Senate, the Speaker of the House of
1199 Representatives, and the minority leaders of the Senate and the
1200 House of Representatives.

1201 (f) A patient shall be examined by a physician ~~or~~ a
1202 clinical psychologist, or by a psychiatric nurse practitioner,
1203 performing within the framework of an established protocol with
1204 a psychiatrist at a ~~receiving~~ facility without unnecessary delay
1205 to determine if the criteria for involuntary services are met.
1206 Emergency treatment may be provided and may, upon the order of a
1207 physician, if the physician determines ~~be given emergency~~
1208 ~~treatment if it is determined~~ that such treatment is necessary
1209 for the safety of the patient or others. The patient may not be
1210 released by the receiving facility or its contractor without the
1211 documented approval of a psychiatrist or a clinical psychologist
1212 or, ~~if the receiving facility is owned or operated by a hospital~~
1213 ~~or health system, the release may also be approved by a~~
1214 psychiatric nurse practitioner performing within the framework
1215 of an established protocol with a psychiatrist, or an attending
1216 emergency department physician with experience in the diagnosis



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1217 and treatment of mental illness ~~and nervous disorders~~ and after
1218 completion of an involuntary examination pursuant to this
1219 subsection. A psychiatric nurse practitioner may not approve the
1220 release of a patient if the involuntary examination was
1221 initiated by a psychiatrist unless the release is approved by
1222 the initiating psychiatrist. ~~However, a patient may not be held~~
1223 ~~in a receiving facility for involuntary examination longer than~~
1224 ~~72 hours.~~

1225 (g) A person may not be held for involuntary examination
1226 for more than 72 hours from the time of his or her arrival at
1227 the facility. Based on the person's needs, one of the following
1228 actions must be taken within the involuntary examination period:

1229 1. The person must be released with the approval of a
1230 physician, psychiatrist, psychiatric nurse practitioner, or
1231 clinical psychologist. However, if the examination is conducted
1232 in a hospital, an attending emergency department physician with
1233 experience in the diagnosis and treatment of mental illness may
1234 approve the release.

1235 2. The person must be asked to give express and informed
1236 consent for voluntary admission if a physician, psychiatrist,
1237 psychiatric nurse practitioner, or clinical psychologist has
1238 determined that the individual is competent to consent to
1239 treatment.

1240 3. A petition for involuntary services must be completed
1241 and filed in the circuit court by the facility administrator. If
1242 electronic filing of the petition is not available in the county
1243 and the 72-hour period ends on a weekend or legal holiday, the
1244 petition must be filed by the next working day. If involuntary
1245 services are deemed necessary, the least restrictive treatment



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1246 consistent with the optimum improvement of the person's
1247 condition must be made available.

1248 (h) An individual discharged from a facility on a voluntary
1249 or an involuntary basis who is currently charged with a crime
1250 shall be released to the custody of a law enforcement officer,
1251 unless the individual has been released from law enforcement
1252 custody by posting of a bond, by a pretrial conditional release,
1253 or by other judicial release.

1254 (i) ~~(g)~~ A person for whom an involuntary examination has
1255 been initiated who is being evaluated or treated at a hospital
1256 for an emergency medical condition specified in s. 395.002 must
1257 be examined by an appropriate ~~a-receiving~~ facility within 72
1258 hours. The 72-hour period begins when the patient arrives at the
1259 hospital and ceases when the attending physician documents that
1260 the patient has an emergency medical condition. If the patient
1261 is examined at a hospital providing emergency medical services
1262 by a professional qualified to perform an involuntary
1263 examination and is found as a result of that examination not to
1264 meet the criteria for involuntary outpatient services placement
1265 pursuant to s. 394.4655(1) or involuntary inpatient placement
1266 pursuant to s. 394.467(1), the patient may be offered voluntary
1267 placement, if appropriate, or released directly from the
1268 hospital providing emergency medical services. The finding by
1269 the professional that the patient has been examined and does not
1270 meet the criteria for involuntary inpatient placement or
1271 involuntary outpatient services placement must be entered into
1272 the patient's clinical record. ~~Nothing in~~ This paragraph is not
1273 intended to prevent a hospital providing emergency medical
1274 services from appropriately transferring a patient to another



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1275 hospital before ~~prior to~~ stabilization if, ~~provided~~ the
1276 requirements of s. 395.1041(3) (c) have been met.

1277 (j) ~~(h)~~ One of the following must occur within 12 hours
1278 after the patient's attending physician documents that the
1279 patient's medical condition has stabilized or that an emergency
1280 medical condition does not exist:

1281 1. The patient must be examined by an appropriate a
1282 ~~designated receiving~~ facility and released; or

1283 2. The patient must be transferred to a designated
1284 ~~receiving~~ facility in which appropriate medical treatment is
1285 available. However, the ~~receiving~~ facility must be notified of
1286 the transfer within 2 hours after the patient's condition has
1287 been stabilized or after determination that an emergency medical
1288 condition does not exist.

1289 ~~(i) Within the 72-hour examination period or, if the 72~~
1290 ~~hours ends on a weekend or holiday, no later than the next~~
1291 ~~working day thereafter, one of the following actions must be~~
1292 ~~taken, based on the individual needs of the patient:~~

1293 1. ~~The patient shall be released, unless he or she is~~
1294 ~~charged with a crime, in which case the patient shall be~~
1295 ~~returned to the custody of a law enforcement officer;~~

1296 2. ~~The patient shall be released, subject to the provisions~~
1297 ~~of subparagraph 1., for voluntary outpatient treatment;~~

1298 3. ~~The patient, unless he or she is charged with a crime,~~
1299 ~~shall be asked to give express and informed consent to placement~~
1300 ~~as a voluntary patient, and, if such consent is given, the~~
1301 ~~patient shall be admitted as a voluntary patient; or~~

1302 4. ~~A petition for involuntary placement shall be filed in~~
1303 ~~the circuit court when outpatient or inpatient treatment is~~



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1304 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
1305 ~~the least restrictive treatment consistent with the optimum~~
1306 ~~improvement of the patient's condition shall be made available.~~
1307 ~~When a petition is to be filed for involuntary outpatient~~
1308 ~~placement, it shall be filed by one of the petitioners specified~~
1309 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
1310 ~~placement shall be filed by the facility administrator.~~

1311 Section 11. Section 394.4655, Florida Statutes, is amended
1312 to read:

1313 394.4655 Involuntary outpatient services placement.—

1314 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES
1315 PLACEMENT.—A person may be ordered to involuntary outpatient
1316 services placement upon a finding of the court, by clear and
1317 convincing evidence, that the person meets all of the following
1318 criteria ~~by clear and convincing evidence:~~

1319 (a) The person is 18 years of age or older.†

1320 (b) The person has a mental illness.†

1321 (c) The person is unlikely to survive safely in the
1322 community without supervision, based on a clinical
1323 determination.†

1324 (d) The person has a history of lack of compliance with
1325 treatment for mental illness.†

1326 (e) The person has:

1327 1. At least twice within the immediately preceding 36
1328 months been involuntarily admitted to a receiving or treatment
1329 facility as defined in s. 394.455, or has received mental health
1330 services in a forensic or correctional facility. The 36-month
1331 period does not include any period during which the person was
1332 admitted or incarcerated; or



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1333 2. Engaged in one or more acts of serious violent behavior
1334 toward self or others, or attempts at serious bodily harm to
1335 himself or herself or others, within the preceding 36 months.~~†~~

1336 (f) The person is, as a result of his or her mental
1337 illness, unlikely to voluntarily participate in the recommended
1338 treatment plan and ~~either he or she~~ has refused voluntary
1339 services placement for treatment after sufficient and
1340 conscientious explanation and disclosure of why the services are
1341 necessary ~~purpose of placement for treatment~~ or ~~he or she~~ is
1342 unable to determine for himself or herself whether services are
1343 ~~placement is~~ necessary.~~†~~

1344 (g) In view of the person's treatment history and current
1345 behavior, the person is in need of involuntary outpatient
1346 services placement in order to prevent a relapse or
1347 deterioration that would be likely to result in serious bodily
1348 harm to himself or herself or others, or a substantial harm to
1349 his or her well-being as set forth in s. 394.463(1).~~†~~

1350 (h) It is likely that the person will benefit from
1351 involuntary outpatient services. ~~placement; and~~

1352 (i) All available, less restrictive alternatives that would
1353 offer an opportunity for improvement of his or her condition
1354 have been judged to be inappropriate or unavailable.

1355 (2) INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.~~-~~

1356 (a)1. A patient who is being recommended for involuntary
1357 outpatient services placement by the administrator of the
1358 ~~receiving~~ facility where the patient has been examined may be
1359 retained by the facility after adherence to the notice
1360 procedures provided in s. 394.4599. The recommendation must be
1361 supported by the opinion of two qualified professionals a



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1362 ~~psychiatrist and the second opinion of a clinical psychologist~~
1363 ~~or another psychiatrist~~, both of whom have personally examined
1364 the patient within the preceding 72 hours, that the criteria for
1365 involuntary outpatient services placement are met. However, in a
1366 county having a population of fewer than 50,000, if the
1367 administrator certifies that a qualified professional
1368 ~~psychiatrist or clinical psychologist~~ is not available to
1369 provide the second opinion, the second opinion may be provided
1370 by a ~~licensed~~ physician who has postgraduate training and
1371 experience in diagnosis and treatment of mental ~~and nervous~~
1372 disorders or by a psychiatric nurse practitioner. Any second
1373 opinion authorized in this subparagraph may be conducted through
1374 a face-to-face examination, in person or by electronic means.
1375 Such recommendation must be entered on an involuntary outpatient
1376 services placement certificate that authorizes the ~~receiving~~
1377 facility to retain the patient pending completion of a hearing.
1378 The certificate must ~~shall~~ be made a part of the patient's
1379 clinical record.

1380 2. If the patient has been stabilized and no longer meets
1381 the criteria for involuntary examination pursuant to s.
1382 394.463(1), the patient must be released from the ~~receiving~~
1383 facility while awaiting the hearing for involuntary outpatient
1384 services placement. Before filing a petition for involuntary
1385 outpatient services treatment, the administrator of the a
1386 ~~receiving~~ facility or a designated department representative
1387 must identify the service provider that will have primary
1388 responsibility for service provision under an order for
1389 involuntary outpatient services placement, unless the person is
1390 otherwise participating in outpatient psychiatric treatment and



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1391 is not in need of public financing for that treatment, in which
1392 case the individual, if eligible, may be ordered to involuntary
1393 treatment pursuant to the existing psychiatric treatment
1394 relationship.

1395 3. The service provider shall prepare a written proposed
1396 treatment plan in consultation with the patient or the patient's
1397 guardian advocate, if appointed, for the court's consideration
1398 for inclusion in the involuntary outpatient services placement
1399 order. The service provider shall also provide a copy of the
1400 treatment plan that addresses the nature and extent of the
1401 mental illness and any co-occurring substance use disorders that
1402 necessitate involuntary outpatient services. The treatment plan
1403 must specify the likely level of care, including the use of
1404 medication, and anticipated discharge criteria for terminating
1405 involuntary outpatient services. The service provider shall also
1406 provide a copy of the proposed treatment plan to the patient and
1407 the administrator of the receiving facility. The treatment plan
1408 must specify the nature and extent of the patient's mental
1409 illness, address the reduction of symptoms that necessitate
1410 involuntary outpatient placement, and include measurable goals
1411 and objectives for the services and treatment that are provided
1412 to treat the person's mental illness and assist the person in
1413 living and functioning in the community or to prevent a relapse
1414 or deterioration. Service providers may select and supervise
1415 other individuals to implement specific aspects of the treatment
1416 plan. The services in the treatment plan must be deemed
1417 clinically appropriate by a physician, clinical psychologist,
1418 psychiatric nurse practitioner, mental health counselor,
1419 marriage and family therapist, or clinical social worker who



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1420 consults with, or is employed or contracted by, the service
1421 provider. The service provider must certify to the court in the
1422 proposed treatment plan whether sufficient services for
1423 improvement and stabilization are currently available and
1424 whether the service provider agrees to provide those services.
1425 If the service provider certifies that the services in the
1426 proposed treatment plan are not available, the petitioner may
1427 not file the petition. The service provider must notify the
1428 managing entity as to the availability of the requested
1429 services. The managing entity must document such efforts to
1430 obtain the requested services.

1431 (b) If a patient in involuntary inpatient placement meets
1432 the criteria for involuntary outpatient services placement, the
1433 administrator of the ~~treatment~~ facility may, before the
1434 expiration of the period during which the ~~treatment~~ facility is
1435 authorized to retain the patient, recommend involuntary
1436 outpatient services placement. The recommendation must be
1437 supported by the opinion of two qualified professionals a
1438 ~~psychiatrist and the second opinion of a clinical psychologist~~
1439 ~~or another psychiatrist~~, both of whom have personally examined
1440 the patient within the preceding 72 hours, that the criteria for
1441 involuntary outpatient services placement are met. However, in a
1442 county having a population of fewer than 50,000, if the
1443 administrator certifies that a qualified professional
1444 ~~psychiatrist or clinical psychologist~~ is not available to
1445 provide the second opinion, the second opinion may be provided
1446 by a ~~licensed~~ physician who has postgraduate training and
1447 experience in diagnosis and treatment of mental ~~and nervous~~
1448 disorders or by a psychiatric nurse practitioner. Any second



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1449 opinion authorized in this paragraph ~~subparagraph~~ may be
1450 conducted through a face-to-face examination, in person or by
1451 electronic means. Such recommendation must be entered on an
1452 involuntary outpatient services ~~placement~~ certificate, and the
1453 certificate must be made a part of the patient's clinical
1454 record.

1455 (c)1. The administrator of the ~~treatment~~ facility shall
1456 provide a copy of the involuntary outpatient services ~~placement~~
1457 certificate and a copy of the state mental health discharge form
1458 to the managing entity ~~a department representative~~ in the county
1459 where the patient will be residing. For persons who are leaving
1460 a state mental health treatment facility, the petition for
1461 involuntary outpatient services ~~placement~~ must be filed in the
1462 county where the patient will be residing.

1463 2. The service provider that will have primary
1464 responsibility for service provision shall be identified by the
1465 designated department representative before ~~prior to~~ the order
1466 for involuntary outpatient services ~~placement~~ and must, before
1467 ~~prior to~~ filing a petition for involuntary outpatient services
1468 ~~placement~~, certify to the court whether the services recommended
1469 in the patient's discharge plan are available ~~in the local~~
1470 ~~community~~ and whether the service provider agrees to provide
1471 those services. The service provider must develop with the
1472 patient, or the patient's guardian advocate, if appointed, a
1473 treatment or service plan that addresses the needs identified in
1474 the discharge plan. The plan must be deemed to be clinically
1475 appropriate by a physician, clinical psychologist, psychiatric
1476 nurse practitioner, mental health counselor, marriage and family
1477 therapist, or clinical social worker, as defined in this



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1478 chapter, who consults with, or is employed or contracted by, the
1479 service provider.

1480 3. If the service provider certifies that the services in
1481 the proposed treatment or service plan are not available, the
1482 petitioner may not file the petition. The service provider must
1483 notify the managing entity as to the availability of the
1484 requested services. The managing entity must document such
1485 efforts to obtain the requested services.

1486 (3) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES
1487 PLACEMENT.—

1488 (a) A petition for involuntary outpatient services
1489 ~~placement~~ may be filed by:

- 1490 1. The administrator of a receiving facility; or
1491 2. The administrator of a treatment facility.

1492 (b) Each required criterion for involuntary outpatient
1493 services ~~placement~~ must be alleged and substantiated in the
1494 petition for involuntary outpatient services ~~placement~~. A copy
1495 of the certificate recommending involuntary outpatient services
1496 ~~placement~~ completed by two ~~a~~ qualified professionals
1497 ~~professional specified in subsection (2)~~ must be attached to the
1498 petition. A copy of the proposed treatment plan must be attached
1499 to the petition. Before the petition is filed, the service
1500 provider shall certify that the services in the proposed
1501 treatment plan are available. If the necessary services are not
1502 available ~~in the patient's local community to respond to the~~
1503 ~~person's individual needs~~, the petition may not be filed. The
1504 service provider must notify the managing entity as to the
1505 availability of the requested services. The managing entity must
1506 document such efforts to obtain the requested services.



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1507 (c) The petition for involuntary outpatient services
1508 ~~placement~~ must be filed in the county where the patient is
1509 located, unless the patient is being placed from a state
1510 treatment facility, in which case the petition must be filed in
1511 the county where the patient will reside. When the petition has
1512 been filed, the clerk of the court shall provide copies of the
1513 petition and the proposed treatment plan to the department, the
1514 managing entity, the patient, the patient's guardian or
1515 representative, the state attorney, and the public defender or
1516 the patient's private counsel. A fee may not be charged for
1517 filing a petition under this subsection.

1518 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
1519 after the filing of a petition for involuntary outpatient
1520 services placement, the court shall appoint the public defender
1521 to represent the person who is the subject of the petition,
1522 unless the person is otherwise represented by counsel. The clerk
1523 of the court shall immediately notify the public defender of the
1524 appointment. The public defender shall represent the person
1525 until the petition is dismissed, the court order expires, or the
1526 patient is discharged from involuntary outpatient services
1527 ~~placement~~. An attorney who represents the patient must be
1528 provided ~~shall have~~ access to the patient, witnesses, and
1529 records relevant to the presentation of the patient's case and
1530 shall represent the interests of the patient, regardless of the
1531 source of payment to the attorney.

1532 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
1533 the concurrence of the patient's counsel, to at least one
1534 continuance of the hearing. The continuance shall be for a
1535 period of up to 4 weeks.



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1536 (6) HEARING ON INVOLUNTARY OUTPATIENT SERVICES ~~PLACEMENT~~.—
1537 (a)1. The court shall hold the hearing on involuntary
1538 outpatient services ~~placement~~ within 5 working days after the
1539 filing of the petition, unless a continuance is granted. The
1540 hearing must ~~shall~~ be held in the county where the petition is
1541 filed, must ~~shall~~ be as convenient to the patient as is
1542 consistent with orderly procedure, and must ~~shall~~ be conducted
1543 in physical settings not likely to be injurious to the patient's
1544 condition. If the court finds that the patient's attendance at
1545 the hearing is not consistent with the best interests of the
1546 patient and if the patient's counsel does not object, the court
1547 may waive the presence of the patient from all or any portion of
1548 the hearing. The state attorney for the circuit in which the
1549 patient is located shall represent the state, rather than the
1550 petitioner, as the real party in interest in the proceeding.

1551 2. The court may appoint a general or special master to
1552 preside at the hearing. One of the professionals who executed
1553 the involuntary outpatient services ~~placement~~ certificate shall
1554 be a witness. The patient and the patient's guardian or
1555 representative shall be informed by the court of the right to an
1556 independent expert examination. If the patient cannot afford
1557 such an examination, the court shall ensure that one is
1558 provided, as otherwise provided by law ~~provide for one~~. The
1559 independent expert's report is ~~shall be~~ confidential and not
1560 discoverable, unless the expert is to be called as a witness for
1561 the patient at the hearing. The court shall allow testimony from
1562 individuals, including family members, deemed by the court to be
1563 relevant under state law, regarding the person's prior history
1564 and how that prior history relates to the person's current



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1565 condition. The testimony in the hearing must be given under
1566 oath, and the proceedings must be recorded. The patient may
1567 refuse to testify at the hearing.

1568 (b)1. If the court concludes that the patient meets the
1569 criteria for involuntary outpatient services placement pursuant
1570 to subsection (1), the court shall issue an order for
1571 involuntary outpatient services placement. The court order shall
1572 be for a period of up to 90 days ~~6 months~~. The order must
1573 specify the nature and extent of the patient's mental illness.
1574 The order of the court and the treatment plan must ~~shall~~ be made
1575 part of the patient's clinical record. The service provider
1576 shall discharge a patient from involuntary outpatient services
1577 ~~placement~~ when the order expires or any time the patient no
1578 longer meets the criteria for involuntary services placement.
1579 Upon discharge, the service provider shall send a certificate of
1580 discharge to the court.

1581 2. The court may not order the department or the service
1582 provider to provide services if the program or service is not
1583 available in the patient's local community, if there is no space
1584 available in the program or service for the patient, or if
1585 funding is not available for the program or service. The service
1586 provider must notify the managing entity as to the availability
1587 of the requested services. The managing entity must document
1588 such efforts to obtain the requested services. A copy of the
1589 order must be sent to the managing entity ~~Agency for Health Care~~
1590 ~~Administration~~ by the service provider within 1 working day
1591 after it is received from the court. The order may be submitted
1592 electronically through existing data systems. After the
1593 ~~placement~~ order for involuntary services is issued, the service



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1594 provider and the patient may modify ~~provisions of~~ the treatment
1595 plan. For any material modification of the treatment plan to
1596 which the patient or, if one is appointed, the patient's
1597 guardian advocate agrees, ~~if appointed, does agree~~, the service
1598 provider shall send notice of the modification to the court. Any
1599 material modifications of the treatment plan which are contested
1600 by the patient or the patient's guardian advocate, if applicable
1601 ~~appointed~~, must be approved or disapproved by the court
1602 consistent with subsection (2).

1603 3. If, in the clinical judgment of a physician, the patient
1604 has failed or ~~has~~ refused to comply with the treatment ordered
1605 by the court, and, in the clinical judgment of the physician,
1606 efforts were made to solicit compliance and the patient may meet
1607 the criteria for involuntary examination, a person may be
1608 brought to a receiving facility pursuant to s. 394.463. If,
1609 after examination, the patient does not meet the criteria for
1610 involuntary inpatient placement pursuant to s. 394.467, the
1611 patient must be discharged from the ~~receiving~~ facility. The
1612 involuntary outpatient services placement order shall remain in
1613 effect unless the service provider determines that the patient
1614 no longer meets the criteria for involuntary outpatient services
1615 ~~placement~~ or until the order expires. The service provider must
1616 determine whether modifications should be made to the existing
1617 treatment plan and must attempt to continue to engage the
1618 patient in treatment. For any material modification of the
1619 treatment plan to which the patient or the patient's guardian
1620 advocate, if applicable appointed, agrees ~~does agree~~, the
1621 service provider shall send notice of the modification to the
1622 court. Any material modifications of the treatment plan which



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1623 are contested by the patient or the patient's guardian advocate,
1624 if applicable ~~appointed~~, must be approved or disapproved by the
1625 court consistent with subsection (2).

1626 (c) If, at any time before the conclusion of the initial
1627 hearing on involuntary outpatient services ~~placement~~, it appears
1628 to the court that the person does not meet the criteria for
1629 involuntary outpatient services ~~placement~~ under this section
1630 but, instead, meets the criteria for involuntary inpatient
1631 placement, the court may order the person admitted for
1632 involuntary inpatient examination under s. 394.463. If the
1633 person instead meets the criteria for involuntary assessment,
1634 protective custody, or involuntary admission pursuant to s.
1635 397.675, the court may order the person to be admitted for
1636 involuntary assessment for a period of 5 days pursuant to s.
1637 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1638 chapter 397.

1639 (d) At the hearing on involuntary outpatient services
1640 ~~placement~~, the court shall consider testimony and evidence
1641 regarding the patient's competence to consent to treatment. If
1642 the court finds that the patient is incompetent to consent to
1643 treatment, it shall appoint a guardian advocate as provided in
1644 s. 394.4598. The guardian advocate shall be appointed or
1645 discharged in accordance with s. 394.4598.

1646 (e) The administrator of the receiving facility or the
1647 designated department representative shall provide a copy of the
1648 court order and adequate documentation of a patient's mental
1649 illness to the service provider for involuntary outpatient
1650 services ~~placement~~. Such documentation must include any advance
1651 directives made by the patient, a psychiatric evaluation of the



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1652 patient, and any evaluations of the patient performed by a
1653 ~~clinical~~ psychologist or a clinical social worker.

1654 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES
1655 PLACEMENT.—

1656 (a)1. If the person continues to meet the criteria for
1657 involuntary outpatient services placement, the service provider
1658 shall, at least 10 days before the expiration of the period
1659 during which the treatment is ordered for the person, file in
1660 the circuit court a petition for continued involuntary
1661 outpatient services placement. The court shall immediately
1662 schedule a hearing on the petition to be held within 15 days
1663 after the petition is filed.

1664 2. The existing involuntary outpatient services placement
1665 order remains in effect until disposition on the petition for
1666 continued involuntary outpatient services placement.

1667 3. A certificate shall be attached to the petition which
1668 includes a statement from the person's physician or clinical
1669 psychologist justifying the request, a brief description of the
1670 patient's treatment during the time he or she was receiving
1671 involuntarily services placed, and an individualized plan of
1672 continued treatment.

1673 4. The service provider shall develop the individualized
1674 plan of continued treatment in consultation with the patient or
1675 the patient's guardian advocate, if applicable appointed. When
1676 the petition has been filed, the clerk of the court shall
1677 provide copies of the certificate and the individualized plan of
1678 continued treatment to the department, the patient, the
1679 patient's guardian advocate, the state attorney, and the
1680 patient's private counsel or the public defender.



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1681 (b) Within 1 court working day after the filing of a
1682 petition for continued involuntary outpatient services
1683 ~~placement~~, the court shall appoint the public defender to
1684 represent the person who is the subject of the petition, unless
1685 the person is otherwise represented by counsel. The clerk of the
1686 court shall immediately notify the public defender of such
1687 appointment. The public defender shall represent the person
1688 until the petition is dismissed or the court order expires or
1689 the patient is discharged from involuntary outpatient services
1690 ~~placement~~. Any attorney representing the patient shall have
1691 access to the patient, witnesses, and records relevant to the
1692 presentation of the patient's case and shall represent the
1693 interests of the patient, regardless of the source of payment to
1694 the attorney.

1695 (c) Hearings on petitions for continued involuntary
1696 outpatient services must ~~placement shall~~ be before the circuit
1697 court. The court may appoint a general or special master to
1698 preside at the hearing. The procedures for obtaining an order
1699 pursuant to this paragraph must meet the requirements of ~~shall~~
1700 ~~be in accordance with~~ subsection (6), except that the time
1701 period included in paragraph (1)(e) does not apply when ~~is not~~
1702 ~~applicable in~~ determining the appropriateness of additional
1703 periods of involuntary outpatient services ~~placement~~.

1704 (d) Notice of the hearing must ~~shall~~ be provided as set
1705 forth in s. 394.4599. The patient and the patient's attorney may
1706 agree to a period of continued outpatient services ~~placement~~
1707 without a court hearing.

1708 (e) The same procedure must ~~shall~~ be repeated before the
1709 expiration of each additional period the patient is placed in



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1710 treatment.

1711 (f) If the patient has previously been found incompetent to
1712 consent to treatment, the court shall consider testimony and
1713 evidence regarding the patient's competence. Section 394.4598
1714 governs the discharge of the guardian advocate if the patient's
1715 competency to consent to treatment has been restored.

1716 Section 12. Section 394.467, Florida Statutes, is amended
1717 to read:

1718 394.467 Involuntary inpatient placement.—

1719 (1) CRITERIA.—A person may be ordered for ~~placed in~~
1720 involuntary inpatient placement for treatment upon a finding of
1721 the court by clear and convincing evidence that:

1722 (a) He or she has a mental illness ~~is mentally ill~~ and
1723 because of his or her mental illness:

1724 1.a. He or she has refused voluntary inpatient placement
1725 for treatment after sufficient and conscientious explanation and
1726 disclosure of the purpose of inpatient placement for treatment;
1727 or

1728 b. He or she is unable to determine for himself or herself
1729 whether inpatient placement is necessary; and

1730 2.a. He or she is ~~manifestly~~ incapable of surviving alone
1731 or with the help of willing and responsible family or friends,
1732 including available alternative services, and, without
1733 treatment, is likely to suffer from neglect or refuse to care
1734 for himself or herself, and such neglect or refusal poses a real
1735 and present threat of substantial physical or mental harm to his
1736 or her well-being; or

1737 b. There is substantial likelihood that in the near future
1738 he or she will inflict serious bodily harm on self or others



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1739 ~~himself or herself or another person~~, as evidenced by recent
1740 behavior causing, attempting, or threatening such harm; and

1741 (b) All available, less restrictive treatment alternatives
1742 that ~~which~~ would offer an opportunity for improvement of his or
1743 her condition have been judged to be inappropriate.

1744 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
1745 retained by a ~~receiving~~ facility or involuntarily placed in a
1746 treatment facility upon the recommendation of the administrator
1747 of the ~~receiving~~ facility where the patient has been examined
1748 and after adherence to the notice and hearing procedures
1749 provided in s. 394.4599. The recommendation must be supported by
1750 the opinion of a psychiatrist and the second opinion of a
1751 psychiatric nurse practitioner, clinical psychologist, or
1752 another psychiatrist, both of whom have personally examined the
1753 patient within the preceding 72 hours, that the criteria for
1754 involuntary inpatient placement are met. However, in a county
1755 that has a population of fewer than 50,000, if the administrator
1756 certifies that a psychiatrist, psychiatric nurse practitioner,
1757 or clinical psychologist is not available to provide the second
1758 opinion, the second opinion may be provided by a ~~licensed~~
1759 physician who has postgraduate training and experience in
1760 diagnosis and treatment of mental illness ~~and nervous disorders~~
1761 or by a psychiatric nurse practitioner. Any second opinion
1762 authorized in this subsection may be conducted through a face-
1763 to-face examination, in person or by electronic means. Such
1764 recommendation shall be entered on a petition for ~~an~~ involuntary
1765 inpatient placement certificate that authorizes the ~~receiving~~
1766 facility to retain the patient pending transfer to a treatment
1767 facility or completion of a hearing.



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1768 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

1769 (a) The administrator of the facility shall file a petition
1770 for involuntary inpatient placement in the court in the county
1771 where the patient is located. Upon filing, the clerk of the
1772 court shall provide copies to the department, the patient, the
1773 patient's guardian or representative, and the state attorney and
1774 public defender of the judicial circuit in which the patient is
1775 located. A No fee may not shall be charged for the filing of a
1776 petition under this subsection.

1777 (b) A facility filing a petition under this subsection for
1778 involuntary inpatient placement shall send a copy of the
1779 petition to the managing entity in its area.

1780 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
1781 after the filing of a petition for involuntary inpatient
1782 placement, the court shall appoint the public defender to
1783 represent the person who is the subject of the petition, unless
1784 the person is otherwise represented by counsel. The clerk of the
1785 court shall immediately notify the public defender of such
1786 appointment. Any attorney representing the patient shall have
1787 access to the patient, witnesses, and records relevant to the
1788 presentation of the patient's case and shall represent the
1789 interests of the patient, regardless of the source of payment to
1790 the attorney.

1791 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
1792 the concurrence of the patient's counsel, to at least one
1793 continuance of the hearing. ~~The continuance shall be for a~~
1794 ~~period of~~ up to 4 weeks.

1795 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

1796 (a)1. The court shall hold the hearing on involuntary



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1797 inpatient placement within 5 court working days, unless a
1798 continuance is granted.

1799 2. Except for good cause documented in the court file, the
1800 hearing must ~~shall~~ be held in the county or the facility, as
1801 appropriate, where the patient is located, must ~~and shall~~ be as
1802 convenient to the patient as is ~~may be~~ consistent with orderly
1803 procedure, and shall be conducted in physical settings not
1804 likely to be injurious to the patient's condition. If the court
1805 finds that the patient's attendance at the hearing is not
1806 consistent with the best interests of the patient, and the
1807 patient's counsel does not object, the court may waive the
1808 presence of the patient from all or any portion of the hearing.
1809 The state attorney for the circuit in which the patient is
1810 located shall represent the state, rather than the petitioning
1811 facility administrator, as the real party in interest in the
1812 proceeding.

1813 3.2- The court may appoint a general or special magistrate
1814 to preside at the hearing. One of the two professionals who
1815 executed the petition for involuntary inpatient placement
1816 certificate shall be a witness. The patient and the patient's
1817 guardian or representative shall be informed by the court of the
1818 right to an independent expert examination. If the patient
1819 cannot afford such an examination, the court shall ensure that
1820 one is provided, as otherwise provided for by law ~~provide for~~
1821 ~~one.~~ The independent expert's report is ~~shall be~~ confidential
1822 and not discoverable, unless the expert is to be called as a
1823 witness for the patient at the hearing. The testimony in the
1824 hearing must be given under oath, and the proceedings must be
1825 recorded. The patient may refuse to testify at the hearing.



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1826 (b) If the court concludes that the patient meets the
1827 criteria for involuntary inpatient placement, it may ~~shall~~ order
1828 that the patient be transferred to a treatment facility or, if
1829 the patient is at a treatment facility, that the patient be
1830 retained there or be treated at any other appropriate ~~receiving~~
1831 ~~or treatment~~ facility, or that the patient receive services from
1832 such a receiving or treatment facility or service provider, on
1833 an involuntary basis, for a period of up to 90 days ~~6 months~~.
1834 However, any order for involuntary mental health services in a
1835 treatment facility may be for up to 6 months. The order shall
1836 specify the nature and extent of the patient's mental illness
1837 The court may not order an individual with traumatic brain
1838 injury or dementia who lacks a co-occurring mental illness to be
1839 involuntarily placed in a treatment facility. The facility shall
1840 discharge a patient any time the patient no longer meets the
1841 criteria for involuntary inpatient placement, unless the patient
1842 has transferred to voluntary status.

1843 (c) If at any time before ~~prior to~~ the conclusion of the
1844 hearing on involuntary inpatient placement it appears to the
1845 court that the person does not meet the criteria for involuntary
1846 inpatient placement under this section, but instead meets the
1847 criteria for involuntary outpatient services ~~placement~~, the
1848 court may order the person evaluated for involuntary outpatient
1849 services ~~placement~~ pursuant to s. 394.4655. The petition and
1850 hearing procedures set forth in s. 394.4655 shall apply. If the
1851 person instead meets the criteria for involuntary assessment,
1852 protective custody, or involuntary admission pursuant to s.
1853 397.675, then the court may order the person to be admitted for
1854 involuntary assessment for a period of 5 days pursuant to s.



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1855 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1856 chapter 397.

1857 (d) At the hearing on involuntary inpatient placement, the
1858 court shall consider testimony and evidence regarding the
1859 patient's competence to consent to treatment. If the court finds
1860 that the patient is incompetent to consent to treatment, it
1861 shall appoint a guardian advocate as provided in s. 394.4598.

1862 (e) The administrator of the petitioning ~~receiving~~ facility
1863 shall provide a copy of the court order and adequate
1864 documentation of a patient's mental illness to the administrator
1865 of a treatment facility if the ~~whenever a~~ patient is ordered for
1866 involuntary inpatient placement, whether by civil or criminal
1867 court. The documentation must ~~shall~~ include any advance
1868 directives made by the patient, a psychiatric evaluation of the
1869 patient, and any evaluations of the patient performed by a
1870 psychiatric nurse practitioner, clinical psychologist, a
1871 marriage and family therapist, a mental health counselor, or a
1872 clinical social worker. The administrator of a treatment
1873 facility may refuse admission to any patient directed to its
1874 facilities on an involuntary basis, whether by civil or criminal
1875 court order, who is not accompanied ~~at the same time~~ by adequate
1876 orders and documentation.

1877 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
1878 PLACEMENT.—

1879 (a) Hearings on petitions for continued involuntary
1880 inpatient placement of an individual placed at any treatment
1881 facility are ~~shall be~~ administrative hearings and must ~~shall~~ be
1882 conducted in accordance with ~~the provisions of~~ s. 120.57(1),
1883 except that any order entered by the administrative law judge is



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1884 ~~shall be~~ final and subject to judicial review in accordance with
1885 s. 120.68. Orders concerning patients committed after
1886 successfully pleading not guilty by reason of insanity are ~~shall~~
1887 ~~be governed by the provisions of~~ s. 916.15.

1888 (b) If the patient continues to meet the criteria for
1889 involuntary inpatient placement and is being treated at a
1890 treatment facility, the administrator shall, before ~~prior to~~ the
1891 expiration of the period ~~during which~~ the treatment facility is
1892 authorized to retain the patient, file a petition requesting
1893 authorization for continued involuntary inpatient placement. The
1894 request must ~~shall~~ be accompanied by a statement from the
1895 patient's physician, psychiatrist, psychiatric nurse
1896 practitioner, or clinical psychologist justifying the request, a
1897 brief description of the patient's treatment during the time he
1898 or she was involuntarily placed, and an individualized plan of
1899 continued treatment. Notice of the hearing must ~~shall~~ be
1900 provided as provided set forth in s. 394.4599. If a patient's
1901 attendance at the hearing is voluntarily waived, the
1902 administrative law judge must determine that the waiver is
1903 knowing and voluntary before waiving the presence of the patient
1904 from all or a portion of the hearing. Alternatively, if at the
1905 hearing the administrative law judge finds that attendance at
1906 the hearing is not consistent with the best interests of the
1907 patient, the administrative law judge may waive the presence of
1908 the patient from all or any portion of the hearing, unless the
1909 patient, through counsel, objects to the waiver of presence. The
1910 testimony in the hearing must be under oath, and the proceedings
1911 must be recorded.

1912 (c) Unless the patient is otherwise represented or is



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1913 ineligible, he or she shall be represented at the hearing on the
1914 petition for continued involuntary inpatient placement by the
1915 public defender of the circuit in which the facility is located.

1916 (d) If at a hearing it is shown that the patient continues
1917 to meet the criteria for involuntary inpatient placement, the
1918 administrative law judge shall sign the order for continued
1919 involuntary inpatient placement for a period of up to 90 days
1920 ~~not to exceed 6 months~~. However, any order for involuntary
1921 mental health services in a treatment facility may be for up to
1922 6 months. The same procedure shall be repeated prior to the
1923 expiration of each additional period the patient is retained.

1924 (e) If continued involuntary inpatient placement is
1925 necessary for a patient admitted while serving a criminal
1926 sentence, but his or her ~~whose~~ sentence is about to expire, or
1927 for a minor patient involuntarily placed, ~~while a minor~~ but who
1928 is about to reach the age of 18, the administrator shall
1929 petition the administrative law judge for an order authorizing
1930 continued involuntary inpatient placement.

1931 (f) If the patient has been previously found incompetent to
1932 consent to treatment, the administrative law judge shall
1933 consider testimony and evidence regarding the patient's
1934 competence. If the administrative law judge finds evidence that
1935 the patient is now competent to consent to treatment, the
1936 administrative law judge may issue a recommended order to the
1937 court that found the patient incompetent to consent to treatment
1938 that the patient's competence be restored and that any guardian
1939 advocate previously appointed be discharged.

1940 (g) If the patient has been ordered to undergo involuntary
1941 inpatient placement and has previously been found incompetent to



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1942 consent to treatment, the court shall consider testimony and
1943 evidence regarding the patient's incompetence. If the patient's
1944 competency to consent to treatment is restored, the discharge of
1945 the guardian advocate shall be governed by the provisions of s.
1946 394.4598.

1947
1948 The procedure required in this subsection must be followed
1949 before the expiration of each additional period the patient is
1950 involuntarily receiving services.

1951 (8) RETURN TO FACILITY OF PATIENTS.—If a patient
1952 involuntarily held ~~When a patient~~ at a ~~treatment~~ facility under
1953 this part leaves the facility without the administrator's
1954 authorization, the administrator may authorize a search for the
1955 patient and his or her ~~the return of the patient~~ to the
1956 facility. The administrator may request the assistance of a law
1957 enforcement agency in this regard ~~the search for and return of~~
1958 ~~the patient.~~

1959 Section 13. Section 394.46715, Florida Statutes, is amended
1960 to read:

1961 394.46715 Rulemaking authority.—The department may adopt
1962 rules to administer this part ~~Department of Children and~~
1963 ~~Families shall have rulemaking authority to implement the~~
1964 ~~provisions of ss. 394.455, 394.4598, 394.4615, 394.463,~~
1965 ~~394.4655, and 394.467 as amended or created by this act. These~~
1966 ~~rules shall be for the purpose of protecting the health, safety,~~
1967 ~~and well-being of persons examined, treated, or placed under~~
1968 ~~this act.~~

1969 Section 14. Section 394.761, Florida Statutes, is created
1970 to read:



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1971 394.761 Revenue maximization.—The department, in
1972 coordination with the managing entities, shall compile detailed
1973 documentation of the cost and reimbursements for Medicaid
1974 covered services provided to Medicaid eligible individuals by
1975 providers of behavioral health services that are also funded for
1976 programs authorized by this chapter and chapter 397. The
1977 department's documentation, along with a report of general
1978 revenue funds supporting behavioral health services that are not
1979 counted as maintenance of effort or match for any other federal
1980 program, will be submitted to the Agency for Health Care
1981 Administration by December 31, 2016. Copies of the report must
1982 also be provided to the Governor, the President of the Senate,
1983 and the Speaker of the House of Representatives. If this report
1984 presents clear evidence that Medicaid reimbursements are less
1985 than the costs of providing the services, the Agency for Health
1986 Care Administration and the Department of Children and Families
1987 will prepare and submit any budget amendments necessary to use
1988 unmatched general revenue funds in the 2016-2017 fiscal year to
1989 draw additional federal funding to increase Medicaid funding to
1990 behavioral health service providers receiving the unmatched
1991 general revenue. Payments shall be made to providers in such
1992 manner as is allowed by federal law and regulations.

1993 Section 15. Subsection (11) is added to section 394.875,
1994 Florida Statutes, to read:

1995 394.875 Crisis stabilization units, residential treatment
1996 facilities, and residential treatment centers for children and
1997 adolescents; authorized services; license required.—

1998 (11) By January 1, 2017, the department and the agency
1999 shall modify licensure rules and procedures to create an option



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2000 for a single, consolidated license for a provider who offers
2001 multiple types of mental health and substance abuse services
2002 regulated under this chapter and chapter 397. Providers eligible
2003 for a consolidated license shall operate these services through
2004 a single corporate entity and a unified management structure.
2005 Any provider serving adults and children must meet department
2006 standards for separate facilities and other requirements
2007 necessary to ensure children's safety and promote therapeutic
2008 efficacy.

2009 Section 16. Section 394.9082, Florida Statutes, is amended
2010 to read:

2011 (Substantial rewording of section. See
2012 s. 394.9082, F.S., for present text.)

2013 394.9082 Behavioral health managing entities' purpose;
2014 definitions; duties; contracting; accountability.-

2015 (1) PURPOSE.-The purpose of the behavioral health managing
2016 entities is to plan, coordinate and contract for the delivery of
2017 community mental health and substance abuse services, to improve
2018 access to care, to promote service continuity, to purchase
2019 services, and to support efficient and effective delivery of
2020 services.

2021 (2) DEFINITIONS.-As used in this section, the term:

2022 (a) "Behavioral health services" means mental health
2023 services and substance abuse prevention and treatment services
2024 as described in this chapter and chapter 397.

2025 (b) "Case management" means those direct services provided
2026 to a client in order to assess needs, plan or arrange services,
2027 coordinate service providers, monitor service delivery, and
2028 evaluate outcomes.



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2029 (c) "Coordinated system of care" means the full array of
2030 behavioral health and related services in a region or a
2031 community offered by all service providers, whether
2032 participating under contract with the managing entity or through
2033 another method of community partnership or mutual agreement.

2034 (d) "Geographic area" means one or more contiguous
2035 counties, circuits, or regions as described in s. 409.966 or s.
2036 381.0406.

2037 (e) "High-need or high-utilization individual" means a
2038 recipient who meets one or more of the following criteria and
2039 may be eligible for intensive case management services:

2040 1. Has resided in a state mental health facility for at
2041 least 6 months in the last 36 months;

2042 2. Has had two or more admissions to a state mental health
2043 facility in the last 36 months; or

2044 3. Has had three or more admissions to a crisis
2045 stabilization unit, an addictions receiving facility, a short-
2046 term residential facility, or an inpatient psychiatric unit
2047 within the last 12 months.

2048 (f) "Managing entity" means a corporation designated or
2049 filed as a nonprofit organization under s. 501(c)(3) of the
2050 Internal Revenue Code which is selected by, and is under
2051 contract with, the department to manage the daily operational
2052 delivery of behavioral health services through a coordinated
2053 system of care.

2054 (g) "Provider network" means the group of direct service
2055 providers, facilities, and organizations under contract with a
2056 managing entity to provide a comprehensive array of emergency,
2057 acute care, residential, outpatient, recovery support, and



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2058 consumer support services, including prevention services.

2059 (h) "Receiving facility" means any public or private
2060 facility designated by the department to receive and hold or to
2061 refer, as appropriate, involuntary patients under emergency
2062 conditions for mental health or substance abuse evaluation and
2063 to provide treatment or transportation to the appropriate
2064 service provider. County jails may not be used or designated as
2065 a receiving facility, a triage center, or an access center.

2066 (3) DEPARTMENT DUTIES.—The department shall:

2067 (a) Designate, with input from the managing entity,
2068 facilities that meet the definitions in s. 394.455(1), (2),
2069 (13), and (41) and the receiving system developed by one or more
2070 counties pursuant to s. 394.4573(2)(b).

2071 (b) Contract with organizations to serve as the managing
2072 entity in accordance with the requirements of this section.

2073 (c) Specify the geographic area served.

2074 (d) Specify data reporting and use of shared data systems.

2075 (e) Develop strategies to divert persons with mental
2076 illness or substance abuse disorders from the criminal and
2077 juvenile justice systems.

2078 (f) Support the development and implementation of a
2079 coordinated system of care by requiring each provider that
2080 receives state funds for behavioral health services through a
2081 direct contract with the department to work with the managing
2082 entity in the provider's service area to coordinate the
2083 provision of behavioral health services, as part of the contract
2084 with the department.

2085 (g) Set performance measures and performance standards for
2086 managing entities based on nationally recognized standards, such



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2087 as those developed by the National Quality Forum, the National
2088 Committee for Quality Assurance, or similar credible sources.

2089 Performance standards must include all of the following:

2090 1. Annual improvement in the extent to which the need for
2091 behavioral health services is met by the coordinated system of
2092 care in the geographic area served.

2093 2. Annual improvement in the percentage of patients who
2094 receive services through the coordinated system of care and who
2095 achieve improved functional status as indicated by health
2096 condition, employment status, and housing stability.

2097 3. Annual reduction in the rates of readmissions to acute
2098 care facilities, jails, prisons, and forensic facilities for
2099 persons receiving care coordination.

2100 4. Annual improvement in consumer and family satisfaction.

2101 (h) Provide technical assistance to the managing entities.

2102 (i) Promote the integration of behavioral health care and
2103 primary care.

2104 (j) Facilitate the coordination between the managing entity
2105 and other payors of behavioral health care.

2106 (k) Develop and provide a unique identifier for clients
2107 receiving services under the managing entity to coordinate care.

2108 (l) Coordinate procedures for the referral and admission of
2109 patients to, and the discharge of patients from, state treatment
2110 facilities and their return to the community.

2111 (m) Ensure that managing entities comply with state and
2112 federal laws, rules, and regulations.

2113 (n) Develop rules for the operations of, and the
2114 requirements that must be met by, the managing entity, if
2115 necessary.



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2116 (4) CONTRACT WITH MANAGING ENTITIES.-
2117 (a) The department's contracts with managing entities must
2118 support efficient and effective administration of the behavioral
2119 health system and ensure accountability for performance.
2120 (b) Beginning July 1, 2018, managing entities under
2121 contract with the department are subject to a contract
2122 performance review. The review must include:
2123 1. Analysis of the duties and performance measures
2124 described in this section;
2125 2. The results of contract monitoring compiled during the
2126 term of the contract; and
2127 3. Related compliance and performance issues.
2128 (c) For the managing entities whose performance is
2129 determined satisfactory after completion of the review pursuant
2130 to paragraph (b), and before the end of the term of the
2131 contract, the department may negotiate and enter into a contract
2132 with the managing entity for a period of 4 years pursuant to s.
2133 287.057(3)(e).
2134 (d) The performance review must be completed by the
2135 beginning of the third year of the 4-year contract. In the event
2136 the managing entity does not meet the requirements of the
2137 performance review, a corrective action plan must be created by
2138 the department. The managing entity must complete the corrective
2139 action plan before the beginning of the fourth year of the
2140 contract. If the corrective action plan is not satisfactorily
2141 completed, the department shall provide notice to the managing
2142 entity that the contract will be terminated at the end of the
2143 contract term and the department shall initiate a competitive
2144 procurement process to select a new managing entity pursuant to



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2145 s. 287.057.

2146 (5) MANAGING ENTITIES DUTIES.—A managing entity shall:

2147 (a) Maintain a board of directors that is representative of
2148 the community and that, at a minimum, includes consumers and
2149 family members, community stakeholders and organizations, and
2150 providers of mental health and substance abuse services,
2151 including public and private receiving facilities.

2152 (b) Conduct a community behavioral health care needs
2153 assessment in the geographic area served by the managing entity.
2154 The needs assessment must be updated annually and provided to
2155 the department. The assessment must include, at a minimum, the
2156 information the department needs for its annual report to the
2157 Governor and Legislature pursuant to s. 394.4573.

2158 (c) Develop local resources by pursuing third-party
2159 payments for services, applying for grants, securing local
2160 matching funds and in-kind services, and any other methods
2161 needed to ensure services are available and accessible.

2162 (d) Provide assistance to counties to develop a designated
2163 receiving system pursuant to s. 394.4573(2)(b) and a
2164 transportation plan pursuant to s. 394.462.

2165 (e) Promote the development and effective implementation of
2166 a coordinated system of care pursuant to s. 394.4573.

2167 (f) Develop a comprehensive network of qualified providers
2168 to deliver behavioral health services. The managing entity is
2169 not required to competitively procure network providers, but
2170 must have a process in place to publicize opportunities to join
2171 the network and to evaluate providers in the network to
2172 determine if they can remain in the network. These processes
2173 must be published on the website of the managing entity. The



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2174 managing entity must ensure continuity of care for clients if a
2175 provider ceases to provide a service or leaves the network.

2176 (g) Enter into cooperative agreements with local homeless
2177 councils and organizations to allow the sharing of available
2178 resource information, shared client information, client referral
2179 services, and any other data or information that may be useful
2180 in addressing the homelessness of persons suffering from a
2181 behavioral health crisis.

2182 (h) Monitor network providers' performance and their
2183 compliance with contract requirements and federal and state
2184 laws, rules, and regulations.

2185 (i) Provide or contract for case management services.

2186 (j) Manage and allocate funds for services to meet the
2187 requirements of law or rule.

2188 (k) Promote integration of behavioral health with primary
2189 care.

2190 (l) Implement shared data systems necessary for the
2191 delivery of coordinated care and integrated services, the
2192 assessment of managing entity performance and provider
2193 performance, and the reporting of outcomes and costs of
2194 services.

2195 (m) Operate in a transparent manner, providing public
2196 access to information, notice of meetings, and opportunities for
2197 public participation in managing entity decisionmaking.

2198 (n) Establish and maintain effective relationships with
2199 community stakeholders, including local governments and other
2200 organizations that serve individuals with behavioral health
2201 needs.

2202 (o) Collaborate with local criminal and juvenile justice



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2203 systems to divert persons with mental illness or substance abuse
2204 disorders, or both, from the criminal and juvenile justice
2205 systems.

2206 (p) Collaborate with the local court system to develop
2207 procedures to maximize the use of involuntary outpatient
2208 services; reduce involuntary inpatient treatment; and increase
2209 diversion from the criminal and juvenile justice systems.

2210 (6) FUNDING FOR MANAGING ENTITIES.—

2211 (a) A contract established between the department and a
2212 managing entity under this section must be funded by general
2213 revenue, other applicable state funds, or applicable federal
2214 funding sources. A managing entity may carry forward documented
2215 unexpended state funds from one fiscal year to the next, but the
2216 cumulative amount carried forward may not exceed 8 percent of
2217 the total value of the contract. Any unexpended state funds in
2218 excess of that percentage must be returned to the department.
2219 The funds carried forward may not be used in a way that would
2220 increase future recurring obligations or for any program or
2221 service that was not authorized as of July 1, 2016, under the
2222 existing contract with the department. Expenditures of funds
2223 carried forward must be separately reported to the department.
2224 Any unexpended funds that remain at the end of the contract
2225 period must be returned to the department. Funds carried forward
2226 may be retained through contract renewals and new contract
2227 procurements as long as the same managing entity is retained by
2228 the department.

2229 (b) The method of payment for a fixed-price contract with a
2230 managing entity must provide for a 2-month advance payment at
2231 the beginning of each fiscal year and equal monthly payments



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2232 thereafter.

2233 (7) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—The
2234 department shall develop, implement, and maintain standards
2235 under which a managing entity shall collect utilization data
2236 from all public receiving facilities situated within its
2237 geographic service area. As used in this subsection, the term
2238 “public receiving facility” means an entity that meets the
2239 licensure requirements of, and is designated by, the department
2240 to operate as a public receiving facility under s. 394.875 and
2241 that is operating as a licensed crisis stabilization unit.

2242 (a) The department shall develop standards and protocols
2243 for managing entities and public receiving facilities to be used
2244 for data collection, storage, transmittal, and analysis. The
2245 standards and protocols must allow for compatibility of data and
2246 data transmittal between public receiving facilities, managing
2247 entities, and the department for the implementation and
2248 requirements of this subsection.

2249 (b) A managing entity shall require a public receiving
2250 facility within its provider network to submit data, in real
2251 time or at least daily, to the managing entity for:

2252 1. All admissions and discharges of clients receiving
2253 public receiving facility services who qualify as indigent, as
2254 defined in s. 394.4787; and

2255 2. The current active census of total licensed beds, the
2256 number of beds purchased by the department, the number of
2257 clients qualifying as indigent who occupy those beds, and the
2258 total number of unoccupied licensed beds regardless of funding.

2259 (c) A managing entity shall require a public receiving
2260 facility within its provider network to submit data, on a



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2261 monthly basis, to the managing entity which aggregates the daily
2262 data submitted under paragraph (b). The managing entity shall
2263 reconcile the data in the monthly submission to the data
2264 received by the managing entity under paragraph (b) to check for
2265 consistency. If the monthly aggregate data submitted by a public
2266 receiving facility under this paragraph are inconsistent with
2267 the daily data submitted under paragraph (b), the managing
2268 entity shall consult with the public receiving facility to make
2269 corrections necessary to ensure accurate data.

2270 (d) A managing entity shall require a public receiving
2271 facility within its provider network to submit data, on an
2272 annual basis, to the managing entity which aggregates the data
2273 submitted and reconciled under paragraph (c). The managing
2274 entity shall reconcile the data in the annual submission to the
2275 data received and reconciled by the managing entity under
2276 paragraph (c) to check for consistency. If the annual aggregate
2277 data submitted by a public receiving facility under this
2278 paragraph are inconsistent with the data received and reconciled
2279 under paragraph (c), the managing entity shall consult with the
2280 public receiving facility to make corrections necessary to
2281 ensure accurate data.

2282 (e) After ensuring the accuracy of data pursuant to
2283 paragraphs (c) and (d), the managing entity shall submit the
2284 data to the department on a monthly and an annual basis. The
2285 department shall create a statewide database for the data
2286 described under paragraph (b) and submitted under this paragraph
2287 for the purpose of analyzing the payments for and the use of
2288 crisis stabilization services funded by the Baker Act on a
2289 statewide basis and on an individual public receiving facility



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2290 basis.

2291 Section 17. Present subsections (20) through (45) of
2292 section 397.311, Florida Statutes, are redesignated as
2293 subsections (21) through (46), respectively, a new subsection
2294 (20) is added to that section, and present subsections (30) and
2295 (38) of that section are amended, to read:

2296 397.311 Definitions.—As used in this chapter, except part
2297 VIII, the term:

2298 (20) "Involuntary services" means court-ordered outpatient
2299 services or treatment for substance abuse disorders or services
2300 provided in an inpatient placement in a receiving facility or
2301 treatment facility.

2302 (31)~~(30)~~ "Qualified professional" means a physician or a
2303 physician assistant licensed under chapter 458 or chapter 459; a
2304 professional licensed under chapter 490 or chapter 491; an
2305 advanced registered nurse practitioner ~~having a specialty in~~
2306 ~~psychiatry~~ licensed under part I of chapter 464; or a person who
2307 is certified through a department-recognized certification
2308 process for substance abuse treatment services and who holds, at
2309 a minimum, a bachelor's degree. A person who is certified in
2310 substance abuse treatment services by a state-recognized
2311 certification process in another state at the time of employment
2312 with a licensed substance abuse provider in this state may
2313 perform the functions of a qualified professional as defined in
2314 this chapter but must meet certification requirements contained
2315 in this subsection no later than 1 year after his or her date of
2316 employment.

2317 (39)~~(38)~~ "Service component" or "component" means a
2318 discrete operational entity within a service provider which is



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2319 subject to licensing as defined by rule. Service components
2320 include prevention, intervention, and clinical treatment
2321 described in subsection (23) ~~(22)~~.

2322 Section 18. Section 397.675, Florida Statutes, is amended
2323 to read:

2324 397.675 Criteria for involuntary admissions, including
2325 protective custody, emergency admission, and other involuntary
2326 assessment, involuntary treatment, and alternative involuntary
2327 assessment for minors, for purposes of assessment and
2328 stabilization, and for involuntary treatment.—A person meets the
2329 criteria for involuntary admission if there is good faith reason
2330 to believe that the person has a substance abuse or co-occurring
2331 mental health disorder ~~is substance abuse impaired~~ and, because
2332 of such disorder impairment:

2333 (1) Has lost the power of self-control with respect to
2334 substance abuse use; and either

2335 (2) (a) ~~Has inflicted, or threatened or attempted to~~
2336 ~~inflict, or unless admitted is likely to inflict, physical harm~~
2337 ~~on himself or herself or another; or~~

2338 ~~(b)~~ Is in need of substance abuse services and, by reason
2339 of substance abuse impairment, his or her judgment has been so
2340 impaired that he or she ~~the person~~ is incapable of appreciating
2341 his or her need for such services and of making a rational
2342 decision in that regard, although thereto; however, mere refusal
2343 to receive such services does not constitute evidence of lack of
2344 judgment with respect to his or her need for such services.

2345 (b) Without care or treatment, is likely to suffer from
2346 neglect or to refuse to care for himself or herself, that such
2347 neglect or refusal poses a real and present threat of



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2348 substantial harm to his or her well-being and that it is not
2349 apparent that such harm may be avoided through the help of
2350 willing family members or friends or the provision of other
2351 services, or there is substantial likelihood that the person has
2352 inflicted, or threatened to or attempted to inflict, or, unless
2353 admitted, is likely to inflict, physical harm on himself,
2354 herself, or another.

2355 Section 19. Section 397.679, Florida Statutes, is amended
2356 to read:

2357 397.679 Emergency admission; circumstances justifying.—A
2358 person who meets the criteria for involuntary admission in s.
2359 397.675 may be admitted to a hospital or to a licensed
2360 detoxification facility or addictions receiving facility for
2361 emergency assessment and stabilization, or to a less intensive
2362 component of a licensed service provider for assessment only,
2363 upon receipt by the facility of a the physician's certificate by
2364 a physician, an advanced registered nurse practitioner, a
2365 clinical psychologist, a licensed clinical social worker, a
2366 licensed marriage and family therapist, a licensed mental health
2367 counselor, a physician assistant working under the scope of
2368 practice of the supervising physician, or a master's-level-
2369 certified addictions professional, if the certificate is
2370 specific to substance abuse disorders, and the completion of an
2371 application for emergency admission.

2372 Section 20. Section 397.6791, Florida Statutes, is amended
2373 to read:

2374 397.6791 Emergency admission; persons who may initiate.—The
2375 following professionals ~~persons~~ may request a certificate for an
2376 emergency assessment or admission:



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2377 (1) In the case of an adult, physicians, advanced
2378 registered nurse practitioners, clinical psychologists, licensed
2379 clinical social workers, licensed marriage and family
2380 therapists, licensed mental health counselors, physician
2381 assistants working under the scope of practice of the
2382 supervising physician, and a master's-level-certified addictions
2383 professional, if the certificate is specific to substance abuse
2384 disorders ~~the certifying physician~~, the person's spouse or legal
2385 guardian, any relative of the person, or any other responsible
2386 adult who has personal knowledge of the person's substance abuse
2387 impairment.

2388 (2) In the case of a minor, the minor's parent, legal
2389 guardian, or legal custodian.

2390 Section 21. Section 397.6793, Florida Statutes, is amended
2391 to read:

2392 397.6793 Professional's ~~Physician's~~ certificate for
2393 emergency admission.—

2394 (1) The professional's ~~physician's~~ certificate must include
2395 the name of the person to be admitted, the relationship between
2396 the person and the professional executing the certificate
2397 ~~physician~~, the relationship between the applicant and the
2398 professional ~~physician~~, any relationship between the
2399 professional ~~physician~~ and the licensed service provider, ~~and~~ a
2400 statement that the person has been examined and assessed within
2401 the preceding 5 days of the application date, and ~~must include~~
2402 factual allegations with respect to the need for emergency
2403 admission, including:

2404 (a) The reason for the ~~physician's~~ belief that the person
2405 is substance abuse impaired; and



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2406 (b) The reason for the ~~physician's~~ belief that because of
2407 such impairment the person has lost the power of self-control
2408 with respect to substance abuse; and ~~either~~

2409 (c)1. The reason for the belief ~~physician believes~~ that,
2410 without care or treatment, the person is likely to suffer from
2411 neglect or refuse to care for himself or herself; that such
2412 neglect or refusal poses a real and present threat of
2413 substantial harm to his or her well-being; and that it is not
2414 apparent that such harm may be avoided through the help of
2415 willing family members or friends or the provision of other
2416 services or there is substantial likelihood that the person has
2417 inflicted or is likely to inflict physical harm on himself or
2418 herself or others unless admitted; or

2419 2. The reason for the belief ~~physician believes~~ that the
2420 person's refusal to voluntarily receive care is based on
2421 judgment so impaired by reason of substance abuse that the
2422 person is incapable of appreciating his or her need for care and
2423 of making a rational decision regarding his or her need for
2424 care.

2425 (2) The professional's ~~physician's~~ certificate must
2426 recommend the least restrictive type of service that is
2427 appropriate for the person. The certificate must be signed by
2428 the professional ~~physician~~. If other less restrictive means are
2429 not available, such as voluntary appearance for outpatient
2430 evaluation, a law enforcement officer shall take the person
2431 named in the certificate into custody and deliver him or her to
2432 the appropriate facility for involuntary examination.

2433 (3) A signed copy of the professional's ~~physician's~~
2434 certificate shall accompany the person, and shall be made a part



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2435 of the person's clinical record, together with a signed copy of
2436 the application. The application and the professional's
2437 ~~physician's~~ certificate authorize the involuntary admission of
2438 the person pursuant to, and subject to the provisions of, ss.
2439 397.679-397.6797.

2440 (4) The professional's certificate is valid for 7 days
2441 after issuance.

2442 (5) The professional's ~~physician's~~ certificate must
2443 indicate whether the person requires transportation assistance
2444 for delivery for emergency admission and specify, pursuant to s.
2445 397.6795, the type of transportation assistance necessary.

2446 Section 22. Section 397.6795, Florida Statutes, is amended
2447 to read:

2448 397.6795 Transportation-assisted delivery of persons for
2449 emergency assessment.—An applicant for a person's emergency
2450 admission, ~~or~~ the person's spouse or guardian, or a law
2451 enforcement officer, ~~or a health officer~~ may deliver a person
2452 named in the professional's ~~physician's~~ certificate for
2453 emergency admission to a hospital or a licensed detoxification
2454 facility or addictions receiving facility for emergency
2455 assessment and stabilization.

2456 Section 23. Subsection (1) of section 397.681, Florida
2457 Statutes, is amended to read:

2458 397.681 Involuntary petitions; general provisions; court
2459 jurisdiction and right to counsel.—

2460 (1) JURISDICTION.—The courts have jurisdiction of
2461 involuntary assessment and stabilization petitions and
2462 involuntary treatment petitions for substance abuse impaired
2463 persons, and such petitions must be filed with the clerk of the



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2464 court in the county where the person is located. The clerk of
2465 the court may not charge a fee for the filing of a petition
2466 under this section. The chief judge may appoint a general or
2467 special magistrate to preside over all or part of the
2468 proceedings. The alleged impaired person is named as the
2469 respondent.

2470 Section 24. Subsection (1) of section 397.6811, Florida
2471 Statutes, is amended to read:

2472 397.6811 Involuntary assessment and stabilization.—A person
2473 determined by the court to appear to meet the criteria for
2474 involuntary admission under s. 397.675 may be admitted for a
2475 period of 5 days to a hospital or to a licensed detoxification
2476 facility or addictions receiving facility, for involuntary
2477 assessment and stabilization or to a less restrictive component
2478 of a licensed service provider for assessment only upon entry of
2479 a court order or upon receipt by the licensed service provider
2480 of a petition. Involuntary assessment and stabilization may be
2481 initiated by the submission of a petition to the court.

2482 (1) If the person upon whose behalf the petition is being
2483 filed is an adult, a petition for involuntary assessment and
2484 stabilization may be filed by the respondent's spouse ~~or~~ , legal
2485 guardian, any relative, a private practitioner, the director of
2486 a licensed service provider or the director's designee, or any
2487 individual ~~three adults~~ who has direct ~~have~~ personal knowledge
2488 of the respondent's substance abuse impairment.

2489 Section 25. Section 397.6814, Florida Statutes, is amended
2490 to read:

2491 397.6814 Involuntary assessment and stabilization; contents
2492 of petition.—A petition for involuntary assessment and



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2493 stabilization must contain the name of the respondent, ~~the~~ the name
2494 of the applicant or applicants, ~~the~~ the relationship between the
2495 respondent and the applicant, ~~and~~ the name of the respondent's
2496 attorney, if known, ~~and a statement of the respondent's ability~~
2497 ~~to afford an attorney;~~ and must state facts to support the need
2498 for involuntary assessment and stabilization, including:

2499 (1) The reason for the petitioner's belief that the
2500 respondent is substance abuse impaired; ~~and~~

2501 (2) The reason for the petitioner's belief that because of
2502 such impairment the respondent has lost the power of self-
2503 control with respect to substance abuse; ~~and either~~

2504 (3) (a) The reason the petitioner believes that the
2505 respondent has inflicted or is likely to inflict physical harm
2506 on himself or herself or others unless admitted; or

2507 (b) The reason the petitioner believes that the
2508 respondent's refusal to voluntarily receive care is based on
2509 judgment so impaired by reason of substance abuse that the
2510 respondent is incapable of appreciating his or her need for care
2511 and of making a rational decision regarding that need for care.
2512 If the respondent has refused to submit to an assessment, such
2513 refusal must be alleged in the petition.

2514
2515 A fee may not be charged for the filing of a petition pursuant
2516 to this section.

2517 Section 26. Section 397.6819, Florida Statutes, is amended
2518 to read:

2519 397.6819 Involuntary assessment and stabilization;
2520 responsibility of licensed service provider.—A licensed service
2521 provider may admit an individual for involuntary assessment and



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2522 stabilization for a period not to exceed 5 days unless a
2523 petition for involuntary outpatient services has been initiated
2524 which authorizes the licensed service provider to retain
2525 physical custody of the person pending further order of the
2526 court pursuant to s. 397.6821. The individual must be assessed
2527 within 24 hours ~~without unnecessary delay~~ by a qualified
2528 professional. The person may not be held pursuant to this
2529 section beyond the 24-hour assessment period unless the
2530 assessment has been reviewed and authorized by a licensed
2531 physician as necessary for continued stabilization. If an
2532 assessment is performed by a qualified professional who is not a
2533 physician, the assessment must be reviewed by a physician before
2534 the end of the assessment period.

2535 Section 27. Section 397.695, Florida Statutes, is amended
2536 to read:

2537 397.695 Involuntary outpatient services ~~treatment~~; persons
2538 who may petition.-

2539 (1) (a) If the respondent is an adult, a petition for
2540 involuntary outpatient services ~~treatment~~ may be filed by the
2541 respondent's spouse or legal guardian, any relative, a service
2542 provider, or any individual ~~three adults~~ who has direct ~~have~~
2543 personal knowledge of the respondent's substance abuse
2544 impairment and his or her prior course of assessment and
2545 treatment.

2546 (b) The administrator of a receiving facility, a crisis
2547 stabilization unit, or an addictions receiving facility where
2548 the patient has been examined may retain the patient at the
2549 facility after adherence to the notice procedures provided in s.
2550 397.6955. The recommendation for involuntary outpatient services



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2551 must be supported by the opinion of a qualified professional as
2552 defined in s. 397.311(31) or a master's-level-certified
2553 addictions professional and by the second opinion of a
2554 psychologist, a physician, or an advanced registered nurse
2555 practitioner licensed under chapter 464, both of whom have
2556 personally examined the patient within the preceding 72 hours,
2557 that the criteria for involuntary outpatient services are met.
2558 However, in a county having a population of fewer than 50,000,
2559 if the administrator of the facility certifies that a qualified
2560 professional is not available to provide the second opinion, the
2561 second opinion may be provided by a physician who has
2562 postgraduate training and experience in the diagnosis and
2563 treatment of substance abuse disorders. Any second opinion
2564 authorized in this section may be conducted through face-to-face
2565 examination, in person, or by electronic means. Such
2566 recommendation must be entered on an involuntary outpatient
2567 certificate that authorizes the facility to retain the patient
2568 pending completion of a hearing. The certificate must be made a
2569 part of the patient's clinical record.

2570 (c) If the patient has been stabilized and no longer meets
2571 the criteria for involuntary assessment and stabilization
2572 pursuant to s. 397.6811, the patient must be released from the
2573 facility while awaiting the hearing for involuntary outpatient
2574 services. Before filing a petition for involuntary outpatient
2575 services, the administrator of the facility must identify the
2576 service provider that will have responsibility for service
2577 provision under the order for involuntary outpatient services,
2578 unless the person is otherwise participating in outpatient
2579 substance abuse disorder services and is not in need of public



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2580 financing of the services, in which case the person, if
2581 eligible, may be ordered to involuntary outpatient services
2582 pursuant to the existing provision-of-services relationship he
2583 or she has for substance abuse disorder services.

2584 (d) The service provider shall prepare a written proposed
2585 treatment plan in consultation with the patient or the patient's
2586 guardian advocate, if applicable, for the order for outpatient
2587 services and provide a copy of the proposed treatment plan to
2588 the patient and the administrator of the facility. The service
2589 provider shall also provide a treatment plan that addresses the
2590 nature and extent of the substance abuse disorder and any co-
2591 occurring mental illness and the risks that necessitates
2592 involuntary outpatient services. The treatment plan must
2593 indicate the likely level of care, including medication and the
2594 anticipated discharge criteria for terminating involuntary
2595 outpatient services. Service providers may coordinate, select,
2596 and supervise other individuals to implement specific aspects of
2597 the treatment plan. The services in the treatment plan must be
2598 deemed clinically appropriate by a qualified professional who
2599 consults with, or is employed by, the service provider. The
2600 service provider must certify that the recommended services in
2601 the treatment plan are available for the stabilization and
2602 improvement of the patient. If the service provider certifies
2603 that the recommended services in the proposed treatment plan are
2604 not available, the petition may not be filed. The service
2605 provider must document its inquiry with the department and the
2606 managing entity as to the availability of the requested
2607 services. The managing entity must document such efforts to
2608 obtain the requested services.



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2609 (e) If a patient in involuntary inpatient placement meets
2610 the criteria for involuntary outpatient services, the
2611 administrator of the treatment facility may, before the
2612 expiration of the period during which the treatment facility is
2613 authorized to retain the patient, recommend involuntary
2614 outpatient services. The recommendation must be supported by the
2615 opinion of a qualified professional as defined in s. 397.311(31)
2616 or a master's-level-certified addictions professional and by the
2617 second opinion of a psychologist, a physician, an advanced
2618 registered nurse practitioner licensed under chapter 464, or a
2619 mental health professional licensed under chapter 491, both of
2620 whom have personally examined the patient within the preceding
2621 72 hours, that the criteria for involuntary outpatient services
2622 are met. However, in a county having a population of fewer than
2623 50,000, if the administrator of the facility certifies that a
2624 qualified professional is not available to provide the second
2625 opinion, the second opinion may be provided by a physician who
2626 has postgraduate training and experience in the diagnosis and
2627 treatment of substance abuse disorders. Any second opinion
2628 authorized in this section may be conducted through face-to-face
2629 examination, in person, or by electronic means. Such
2630 recommendation must be entered on an involuntary outpatient
2631 certificate that authorizes the facility to retain the patient
2632 pending completion of a hearing. The certificate must be made a
2633 part of the patient's clinical record.

2634 (f) The service provider who is responsible for providing
2635 services under the order for involuntary outpatient services
2636 must be identified before the entry of the order for outpatient
2637 services. The service provider shall certify to the court that



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2638 the recommended services in the treatment plan are available for
2639 the stabilization and improvement of the patient. If the service
2640 provider certifies that the recommended services in the proposed
2641 treatment plan are not available, the petition may not be filed.
2642 The service provider must document notify the managing entity as
2643 to the availability of the requested services. The managing
2644 entity must document such efforts to obtain the requested
2645 services.

2646 (2) If the respondent is a minor, a petition for
2647 involuntary treatment may be filed by a parent, legal guardian,
2648 or service provider.

2649 Section 28. Section 397.6951, Florida Statutes, is amended
2650 to read:

2651 397.6951 Contents of petition for involuntary outpatient
2652 services treatment.—A petition for involuntary outpatient
2653 services treatment must contain the name of the respondent ~~to be~~
2654 ~~admitted~~; the name of the petitioner or petitioners; the
2655 relationship between the respondent and the petitioner; the name
2656 of the respondent's attorney, if known, ~~and a statement of the~~
2657 ~~petitioner's knowledge of the respondent's ability to afford an~~
2658 ~~attorney~~; the findings and recommendations of the assessment
2659 performed by the qualified professional; and the factual
2660 allegations presented by the petitioner establishing the need
2661 for involuntary outpatient services. The factual allegations
2662 must demonstrate treatment, including:

2663 (1) The reason for the petitioner's belief that the
2664 respondent is substance abuse impaired; ~~and~~

2665 (2) The respondent's history of failure to comply with
2666 requirements for treatment for substance abuse and that the



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2667 respondent has been involuntarily admitted to a receiving or
2668 treatment facility at least twice within the immediately
2669 preceding 36 months; ~~The reason for the petitioner's belief that~~
2670 ~~because of such impairment the respondent has lost the power of~~
2671 ~~self-control with respect to substance abuse; and either~~

2672 (3) That the respondent is, as a result of his or her
2673 substance abuse disorder, unlikely to voluntarily participate in
2674 the recommended services after sufficient and conscientious
2675 explanation and disclosure of the purpose of the services or he
2676 or she is unable to determine for himself or herself whether
2677 outpatient services are necessary;

2678 (4) That, in view of the person's treatment history and
2679 current behavior, the person is in need of involuntary
2680 outpatient services; that without services, the person is likely
2681 to suffer from neglect or to refuse to care for himself or
2682 herself; that such neglect or refusal poses a real and present
2683 threat of substantial harm to his or her well-being; and that
2684 there is a substantial likelihood that without services the
2685 person will cause serious bodily harm to himself, herself, or
2686 others in the near future, as evidenced by recent behavior; and

2687 (5) That it is likely that the person will benefit from
2688 involuntary outpatient services.

2689 ~~(3) (a) The reason the petitioner believes that the~~
2690 ~~respondent has inflicted or is likely to inflict physical harm~~
2691 ~~on himself or herself or others unless admitted; or~~

2692 ~~(b) The reason the petitioner believes that the~~
2693 ~~respondent's refusal to voluntarily receive care is based on~~
2694 ~~judgment so impaired by reason of substance abuse that the~~
2695 ~~respondent is incapable of appreciating his or her need for care~~



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2696 ~~and of making a rational decision regarding that need for care.~~

2697 Section 29. Section 397.6955, Florida Statutes, is amended
2698 to read:

2699 397.6955 Duties of court upon filing of petition for
2700 involuntary outpatient services ~~treatment~~.

2701 (1) Upon the filing of a petition for ~~the~~ involuntary
2702 outpatient services for ~~treatment~~ of a substance abuse impaired
2703 person with the clerk of the court, the court shall immediately
2704 determine whether the respondent is represented by an attorney
2705 or whether the appointment of counsel for the respondent is
2706 appropriate. If the court appoints counsel for the person, the
2707 clerk of the court shall immediately notify the regional
2708 conflict counsel, created pursuant to s. 27.511, of the
2709 appointment. The regional conflict counsel shall represent the
2710 person until the petition is dismissed, the court order expires,
2711 or the person is discharged from involuntary outpatient
2712 services. An attorney that represents the person named in the
2713 petition shall have access to the person, witnesses, and records
2714 relevant to the presentation of the person's case and shall
2715 represent the interests of the person, regardless of the source
2716 of payment to the attorney.

2717 (2) The court shall schedule a hearing to be held on the
2718 petition within 5 ~~10~~ days unless a continuance is granted. The
2719 court may appoint a general or special master to preside at the
2720 hearing.

2721 (3) A copy of the petition and notice of the hearing must
2722 be provided to the respondent; the respondent's parent,
2723 guardian, or legal custodian, in the case of a minor; the
2724 respondent's attorney, if known; the petitioner; the



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2725 respondent's spouse or guardian, if applicable; and such other
2726 persons as the court may direct. If the respondent is a minor, a
2727 copy of the petition and notice of the hearing must be and have
2728 such petition and order personally delivered to the respondent
2729 if he or she is a minor. The court shall also issue a summons to
2730 the person whose admission is sought.

2731 Section 30. Section 397.6957, Florida Statutes, is amended
2732 to read:

2733 397.6957 Hearing on petition for involuntary outpatient
2734 services treatment.—

2735 (1) At a hearing on a petition for involuntary outpatient
2736 services treatment, the court shall hear and review all relevant
2737 evidence, including the review of results of the assessment
2738 completed by the qualified professional in connection with the
2739 respondent's protective custody, emergency admission,
2740 involuntary assessment, or alternative involuntary admission.
2741 The respondent must be present unless the court finds that his
2742 or her presence is likely to be injurious to himself or herself
2743 or others, in which event the court must appoint a guardian
2744 advocate to act in behalf of the respondent throughout the
2745 proceedings.

2746 (2) The petitioner has the burden of proving by clear and
2747 convincing evidence that:

2748 (a) The respondent is substance abuse impaired and has a
2749 history of lack of compliance with treatment for substance
2750 abuse; ~~and~~

2751 (b) Because of such impairment the respondent is unlikely
2752 to voluntarily participate in the recommended treatment or is
2753 unable to determine for himself or herself whether outpatient



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2754 ~~services are necessary the respondent has lost the power of~~
2755 ~~self-control with respect to substance abuse; and either~~

2756 1. Without services, the respondent is likely to suffer
2757 from neglect or to refuse to care for himself or herself; that
2758 such neglect or refusal poses a real and present threat of
2759 substantial harm to his or her well-being; and that there is a
2760 substantial likelihood that without services the respondent will
2761 cause serious bodily harm to himself or herself or others in the
2762 near future, as evidenced by recent behavior ~~The respondent has~~
2763 ~~inflicted or is likely to inflict physical harm on himself or~~
2764 ~~herself or others unless admitted; or~~

2765 2. The respondent's refusal to voluntarily receive care is
2766 based on judgment so impaired by reason of substance abuse that
2767 the respondent is incapable of appreciating his or her need for
2768 care and of making a rational decision regarding that need for
2769 care.

2770 (3) One of the qualified professionals who executed the
2771 involuntary outpatient services certificate must be a witness.
2772 The court shall allow testimony from individuals, including
2773 family members, deemed by the court to be relevant under state
2774 law, regarding the respondent's prior history and how that prior
2775 history relates to the person's current condition. The testimony
2776 in the hearing must be under oath, and the proceedings must be
2777 recorded. The patient may refuse to testify at the hearing.

2778 (4) ~~(3)~~ At the conclusion of the hearing the court shall
2779 ~~either~~ dismiss the petition or order the respondent to receive
2780 undergo involuntary outpatient services from his or her
2781 ~~substance abuse treatment, with the respondent's chosen licensed~~
2782 ~~service provider if to deliver the involuntary substance abuse~~



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2783 ~~treatment~~ where possible and appropriate.

2784 Section 31. Section 397.697, Florida Statutes, is amended
2785 to read:

2786 397.697 Court determination; effect of court order for
2787 involuntary outpatient services ~~substance abuse treatment~~.

2788 (1) When the court finds that the conditions for
2789 involuntary outpatient services ~~substance abuse treatment~~ have
2790 been proved by clear and convincing evidence, it may order the
2791 respondent to receive ~~undergo~~ involuntary outpatient services
2792 from ~~treatment~~ by a licensed service provider for a period not
2793 to exceed 60 days. If the court finds it necessary, it may
2794 direct the sheriff to take the respondent into custody and
2795 deliver him or her to the licensed service provider specified in
2796 the court order, or to the nearest appropriate licensed service
2797 provider, for involuntary outpatient services ~~treatment~~. When
2798 the conditions justifying involuntary outpatient services
2799 ~~treatment~~ no longer exist, the individual must be released as
2800 provided in s. 397.6971. When the conditions justifying
2801 involuntary outpatient services ~~treatment~~ are expected to exist
2802 after 60 days of services ~~treatment~~, a renewal of the
2803 involuntary outpatient services ~~treatment~~ order may be requested
2804 pursuant to s. 397.6975 before ~~prior to~~ the end of the 60-day
2805 period.

2806 (2) In all cases resulting in an order for involuntary
2807 outpatient services ~~substance abuse treatment~~, the court shall
2808 retain jurisdiction over the case and the parties for the entry
2809 of such further orders as the circumstances may require. The
2810 court's requirements for notification of proposed release must
2811 be included in the original ~~treatment~~ order.



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2812 (3) An involuntary outpatient services ~~treatment~~ order
2813 authorizes the licensed service provider to require the
2814 individual to receive services that ~~undergo such treatment as~~
2815 will benefit him or her, including services ~~treatment~~ at any
2816 licensable service component of a licensed service provider.

2817 (4) The court may not order involuntary outpatient services
2818 if the service provider certifies to the court that the
2819 recommended services are not available. The service provider
2820 must document notify the managing entity as to the availability
2821 of the requested services. The managing entity must document
2822 such efforts to obtain the requested services.

2823 (5) If the court orders involuntary outpatient services, a
2824 copy of the order must be sent to the managing entity within 1
2825 working day after it is received from the court. Documents may
2826 be submitted electronically through existing data systems, if
2827 applicable. After the order for outpatient services is issued,
2828 the service provider and the patient may modify provisions of
2829 the treatment plan. For any material modification of the
2830 treatment plan to which the patient or the patient's guardian
2831 advocate, if appointed, agrees, the service provider shall send
2832 notice of the modification to the court. Any material
2833 modification of the treatment plan which is contested by the
2834 patient or the guardian advocate, if applicable, must be
2835 approved or disapproved by the court.

2836 Section 32. Section 397.6971, Florida Statutes, is amended
2837 to read:

2838 397.6971 Early release from involuntary outpatient services
2839 ~~substance abuse treatment.~~-

2840 (1) At any time before ~~prior to~~ the end of the 60-day



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2841 involuntary outpatient services ~~treatment~~ period, or ~~prior to~~
2842 the end of any extension granted pursuant to s. 397.6975, an
2843 individual receiving ~~admitted for~~ involuntary outpatient
2844 services ~~treatment~~ may be determined eligible for discharge to
2845 the most appropriate referral or disposition for the individual
2846 when any of the following apply:

2847 (a) The individual no longer meets the criteria for
2848 involuntary admission and has given his or her informed consent
2849 to be transferred to voluntary treatment status. ~~†~~

2850 (b) If the individual was admitted on the grounds of
2851 likelihood of infliction of physical harm upon himself or
2852 herself or others, such likelihood no longer exists. ~~†~~ ~~or~~

2853 (c) If the individual was admitted on the grounds of need
2854 for assessment and stabilization or treatment, accompanied by
2855 inability to make a determination respecting such need, ~~either~~:

2856 1. Such inability no longer exists; or

2857 2. It is evident that further treatment will not bring
2858 about further significant improvements in the individual's
2859 condition. ~~†~~

2860 (d) The individual is no longer in need of services. ~~†~~ ~~or~~

2861 (e) The director of the service provider determines that
2862 the individual is beyond the safe management capabilities of the
2863 provider.

2864 (2) Whenever a qualified professional determines that an
2865 individual admitted for involuntary outpatient services
2866 qualifies ~~treatment is ready~~ for early release under ~~for any of~~
2867 ~~the reasons listed in~~ subsection (1), the service provider shall
2868 immediately discharge the individual, ~~†~~ and must notify all
2869 persons specified by the court in the original treatment order.



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2870 Section 33. Section 397.6975, Florida Statutes, is amended
2871 to read:

2872 397.6975 Extension of involuntary outpatient services
2873 ~~substance abuse treatment~~ period.-

2874 (1) Whenever a service provider believes that an individual
2875 who is nearing the scheduled date of his or her release from
2876 involuntary outpatient services ~~treatment~~ continues to meet the
2877 criteria for involuntary outpatient services ~~treatment~~ in s.
2878 397.693, a petition for renewal of the involuntary outpatient
2879 services ~~treatment~~ order may be filed with the court at least 10
2880 days before the expiration of the court-ordered outpatient
2881 services ~~treatment~~ period. The court shall immediately schedule
2882 a hearing to be held not more than 15 days after filing of the
2883 petition. The court shall provide the copy of the petition for
2884 renewal and the notice of the hearing to all parties to the
2885 proceeding. The hearing is conducted pursuant to s. 397.6957.

2886 (2) If the court finds that the petition for renewal of the
2887 involuntary outpatient services ~~treatment~~ order should be
2888 granted, it may order the respondent to receive ~~undergo~~
2889 involuntary outpatient services ~~treatment~~ for a period not to
2890 exceed an additional 90 days. When the conditions justifying
2891 involuntary outpatient services ~~treatment~~ no longer exist, the
2892 individual must be released as provided in s. 397.6971. When the
2893 conditions justifying involuntary outpatient services ~~treatment~~
2894 continue to exist after an additional 90 days of service
2895 ~~additional treatment~~, a new petition requesting renewal of the
2896 involuntary outpatient services ~~treatment~~ order may be filed
2897 pursuant to this section.

2898 (3) Within 1 court working day after the filing of a



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2899 petition for continued involuntary outpatient services, the
2900 court shall appoint the regional conflict counsel to represent
2901 the respondent, unless the respondent is otherwise represented
2902 by counsel. The clerk of the court shall immediately notify the
2903 regional conflict counsel of such appointment. The regional
2904 conflict counsel shall represent the respondent until the
2905 petition is dismissed or the court order expires or the
2906 respondent is discharged from involuntary outpatient services.
2907 Any attorney representing the respondent shall have access to
2908 the respondent, witnesses, and records relevant to the
2909 presentation of the respondent's case and shall represent the
2910 interests of the respondent, regardless of the source of payment
2911 to the attorney.

2912 (4) Hearings on petitions for continued involuntary
2913 outpatient services shall be before the circuit court. The court
2914 may appoint a general or special master to preside at the
2915 hearing. The procedures for obtaining an order pursuant to this
2916 section shall be in accordance with s. 397.697.

2917 (5) Notice of hearing shall be provided to the respondent
2918 or his or her counsel. The respondent and the respondent's
2919 counsel may agree to a period of continued outpatient services
2920 without a court hearing.

2921 (6) The same procedure shall be repeated before the
2922 expiration of each additional period of outpatient services.

2923 (7) If the respondent has previously been found incompetent
2924 to consent to treatment, the court shall consider testimony and
2925 evidence regarding the respondent's competence.

2926 Section 34. Section 397.6977, Florida Statutes, is amended
2927 to read:



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2928 397.6977 Disposition of individual upon completion of
2929 involuntary outpatient services ~~substance abuse treatment~~.—At
2930 the conclusion of the 60-day period of court-ordered involuntary
2931 outpatient services ~~treatment~~, the respondent individual is
2932 automatically discharged unless a motion for renewal of the
2933 involuntary outpatient services ~~treatment~~ order has been filed
2934 with the court pursuant to s. 397.6975.

2935 Section 35. Section 397.6978, Florida Statutes, is created
2936 to read:

2937 397.6978 Guardian advocate; patient incompetent to consent;
2938 substance abuse disorder.—

2939 (1) The administrator of a receiving facility or addictions
2940 receiving facility may petition the court for the appointment of
2941 a guardian advocate based upon the opinion of a qualified
2942 professional that the patient is incompetent to consent to
2943 treatment. If the court finds that a patient is incompetent to
2944 consent to treatment and has not been adjudicated incapacitated
2945 and that a guardian with the authority to consent to mental
2946 health treatment has not been appointed, it may appoint a
2947 guardian advocate. The patient has the right to have an attorney
2948 represent him or her at the hearing. If the person is indigent,
2949 the court shall appoint the office of the regional conflict
2950 counsel to represent him or her at the hearing. The patient has
2951 the right to testify, cross-examine witnesses, and present
2952 witnesses. The proceeding shall be recorded electronically or
2953 stenographically, and testimony must be provided under oath. One
2954 of the qualified professionals authorized to give an opinion in
2955 support of a petition for involuntary placement, as described in
2956 s. 397.675 or s. 397.6981, must testify. A guardian advocate



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2957 must meet the qualifications of a guardian contained in part IV
2958 of chapter 744. The person who is appointed as a guardian
2959 advocate must agree to the appointment.

2960 (2) The following persons are prohibited from appointment
2961 as a patient's guardian advocate:

2962 (a) A professional providing clinical services to the
2963 individual under this part.

2964 (b) The qualified professional who initiated the
2965 involuntary examination of the individual, if the examination
2966 was initiated by a qualified professional's certificate.

2967 (c) An employee, an administrator, or a board member of the
2968 facility providing the examination of the individual.

2969 (d) An employee, an administrator, or a board member of the
2970 treatment facility providing treatment of the individual.

2971 (e) A person providing any substantial professional
2972 services to the individual, including clinical services.

2973 (f) A creditor of the individual.

2974 (g) A person subject to an injunction for protection
2975 against domestic violence under s. 741.30, whether the order of
2976 injunction is temporary or final, and for which the individual
2977 was the petitioner.

2978 (h) A person subject to an injunction for protection
2979 against repeat violence, sexual violence, or dating violence
2980 under s. 784.046, whether the order of injunction is temporary
2981 or final, and for which the individual was the petitioner.

2982 (3) A facility requesting appointment of a guardian
2983 advocate must, before the appointment, provide the prospective
2984 guardian advocate with information about the duties and
2985 responsibilities of guardian advocates, including information



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2986 about the ethics of medical decisionmaking. Before asking a
2987 guardian advocate to give consent to treatment for a patient,
2988 the facility must provide to the guardian advocate sufficient
2989 information so that the guardian advocate can decide whether to
2990 give express and informed consent to the treatment. Such
2991 information must include information that demonstrates that the
2992 treatment is essential to the care of the patient and does not
2993 present an unreasonable risk of serious, hazardous, or
2994 irreversible side effects. If possible, before giving consent to
2995 treatment, the guardian advocate must personally meet and talk
2996 with the patient and the patient's physician. If that is not
2997 possible, the discussion may be conducted by telephone. The
2998 decision of the guardian advocate may be reviewed by the court,
2999 upon petition of the patient's attorney, the patient's family,
3000 or the facility administrator.

3001 (4) In lieu of the training required for guardians
3002 appointed pursuant to chapter 744, a guardian advocate shall
3003 attend at least a 4-hour training course approved by the court
3004 before exercising his or her authority. At a minimum, the
3005 training course must include information about patient rights,
3006 the diagnosis of substance abuse disorders, the ethics of
3007 medical decisionmaking, and the duties of guardian advocates.

3008 (5) The required training course and the information to be
3009 supplied to prospective guardian advocates before their
3010 appointment must be developed by the department, approved by the
3011 chief judge of the circuit court, and taught by a court-approved
3012 organization, which may include, but need not be limited to, a
3013 community college, a guardianship organization, a local bar
3014 association, or The Florida Bar. The training course may be web-



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3015 based, provided in video format, or other electronic means but
3016 must be capable of ensuring the identity and participation of
3017 the prospective guardian advocate. The court may waive some or
3018 all of the training requirements for guardian advocates or
3019 impose additional requirements. The court shall make its
3020 decision on a case-by-case basis and, in making its decision,
3021 shall consider the experience and education of the guardian
3022 advocate, the duties assigned to the guardian advocate, and the
3023 needs of the patient.

3024 (6) In selecting a guardian advocate, the court shall give
3025 preference to the patient's health care surrogate, if one has
3026 already been designated by the patient. If the patient has not
3027 previously designated a health care surrogate, the selection
3028 shall be made, except for good cause documented in the court
3029 record, from among the following persons, listed in order of
3030 priority:

- 3031 (a) The patient's spouse.
3032 (b) An adult child of the patient.
3033 (c) A parent of the patient.
3034 (d) The adult next of kin of the patient.
3035 (e) An adult friend of the patient.
3036 (f) An adult trained and willing to serve as the guardian
3037 advocate for the patient.

3038 (7) If a guardian with the authority to consent to medical
3039 treatment has not already been appointed, or if the patient has
3040 not already designated a health care surrogate, the court may
3041 authorize the guardian advocate to consent to medical treatment
3042 as well as substance abuse disorder treatment. Unless otherwise
3043 limited by the court, a guardian advocate with authority to



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3044 consent to medical treatment has the same authority to make
3045 health care decisions and is subject to the same restrictions as
3046 a proxy appointed under part IV of chapter 765. Unless the
3047 guardian advocate has sought and received express court approval
3048 in a proceeding separate from the proceeding to determine the
3049 competence of the patient to consent to medical treatment, the
3050 guardian advocate may not consent to:

3051 (a) Abortion.

3052 (b) Sterilization.

3053 (c) Electroshock therapy.

3054 (d) Psychosurgery.

3055 (e) Experimental treatments that have not been approved by
3056 a federally approved institutional review board in accordance
3057 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

3058
3059 The court must base its authorization on evidence that the
3060 treatment or procedure is essential to the care of the patient
3061 and that the treatment does not present an unreasonable risk of
3062 serious, hazardous, or irreversible side effects. In complying
3063 with this subsection, the court shall follow the procedures set
3064 forth in subsection (1).

3065 (8) The guardian advocate shall be discharged when the
3066 patient is discharged from an order for involuntary outpatient
3067 services or involuntary inpatient placement or when the patient
3068 is transferred from involuntary to voluntary status. The court
3069 or a hearing officer shall consider the competence of the
3070 patient as provided in subsection (1) and may consider an
3071 involuntarily placed patient's competence to consent to
3072 treatment at any hearing. Upon sufficient evidence, the court



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3073 may restore, or the hearing officer may recommend that the court
3074 restore, the patient's competence. A copy of the order restoring
3075 competence or the certificate of discharge containing the
3076 restoration of competence shall be provided to the patient and
3077 the guardian advocate.

3078 Section 36. Paragraph (a) of subsection (3) of section
3079 39.407, Florida Statutes, is amended to read:

3080 39.407 Medical, psychiatric, and psychological examination
3081 and treatment of child; physical, mental, or substance abuse
3082 examination of person with or requesting child custody.—

3083 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
3084 or paragraph (e), before the department provides psychotropic
3085 medications to a child in its custody, the prescribing physician
3086 shall attempt to obtain express and informed consent, as defined
3087 in s. 394.455(16) ~~s. 394.455(9)~~ and as described in s.
3088 394.459(3) (a), from the child's parent or legal guardian. The
3089 department must take steps necessary to facilitate the inclusion
3090 of the parent in the child's consultation with the physician.
3091 However, if the parental rights of the parent have been
3092 terminated, the parent's location or identity is unknown or
3093 cannot reasonably be ascertained, or the parent declines to give
3094 express and informed consent, the department may, after
3095 consultation with the prescribing physician, seek court
3096 authorization to provide the psychotropic medications to the
3097 child. Unless parental rights have been terminated and if it is
3098 possible to do so, the department shall continue to involve the
3099 parent in the decisionmaking process regarding the provision of
3100 psychotropic medications. If, at any time, a parent whose
3101 parental rights have not been terminated provides express and



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3102 informed consent to the provision of a psychotropic medication,
3103 the requirements of this section that the department seek court
3104 authorization do not apply to that medication until such time as
3105 the parent no longer consents.

3106 2. Any time the department seeks a medical evaluation to
3107 determine the need to initiate or continue a psychotropic
3108 medication for a child, the department must provide to the
3109 evaluating physician all pertinent medical information known to
3110 the department concerning that child.

3111 Section 37. Paragraph (e) of subsection (5) of section
3112 212.055, Florida Statutes, is amended to read:

3113 212.055 Discretionary sales surtaxes; legislative intent;
3114 authorization and use of proceeds.—It is the legislative intent
3115 that any authorization for imposition of a discretionary sales
3116 surtax shall be published in the Florida Statutes as a
3117 subsection of this section, irrespective of the duration of the
3118 levy. Each enactment shall specify the types of counties
3119 authorized to levy; the rate or rates which may be imposed; the
3120 maximum length of time the surtax may be imposed, if any; the
3121 procedure which must be followed to secure voter approval, if
3122 required; the purpose for which the proceeds may be expended;
3123 and such other requirements as the Legislature may provide.
3124 Taxable transactions and administrative procedures shall be as
3125 provided in s. 212.054.

3126 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
3127 s. 125.011(1) may levy the surtax authorized in this subsection
3128 pursuant to an ordinance either approved by extraordinary vote
3129 of the county commission or conditioned to take effect only upon
3130 approval by a majority vote of the electors of the county voting



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3131 in a referendum. In a county as defined in s. 125.011(1), for
3132 the purposes of this subsection, "county public general
3133 hospital" means a general hospital as defined in s. 395.002
3134 which is owned, operated, maintained, or governed by the county
3135 or its agency, authority, or public health trust.

3136 (e) A governing board, agency, or authority shall be
3137 chartered by the county commission upon this act becoming law.
3138 The governing board, agency, or authority shall adopt and
3139 implement a health care plan for indigent health care services.
3140 The governing board, agency, or authority shall consist of no
3141 more than seven and no fewer than five members appointed by the
3142 county commission. The members of the governing board, agency,
3143 or authority shall be at least 18 years of age and residents of
3144 the county. No member may be employed by or affiliated with a
3145 health care provider or the public health trust, agency, or
3146 authority responsible for the county public general hospital.
3147 The following community organizations shall each appoint a
3148 representative to a nominating committee: the South Florida
3149 Hospital and Healthcare Association, the Miami-Dade County
3150 Public Health Trust, the Dade County Medical Association, the
3151 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
3152 County. This committee shall nominate between 10 and 14 county
3153 citizens for the governing board, agency, or authority. The
3154 slate shall be presented to the county commission and the county
3155 commission shall confirm the top five to seven nominees,
3156 depending on the size of the governing board. Until such time as
3157 the governing board, agency, or authority is created, the funds
3158 provided for in subparagraph (d)2. shall be placed in a
3159 restricted account set aside from other county funds and not



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3160 disbursed by the county for any other purpose.

3161 1. The plan shall divide the county into a minimum of four
3162 and maximum of six service areas, with no more than one
3163 participant hospital per service area. The county public general
3164 hospital shall be designated as the provider for one of the
3165 service areas. Services shall be provided through participants'
3166 primary acute care facilities.

3167 2. The plan and subsequent amendments to it shall fund a
3168 defined range of health care services for both indigent persons
3169 and the medically poor, including primary care, preventive care,
3170 hospital emergency room care, and hospital care necessary to
3171 stabilize the patient. For the purposes of this section,
3172 "stabilization" means stabilization as defined in s. 397.311(42)
3173 ~~s. 397.311(41)~~. Where consistent with these objectives, the plan
3174 may include services rendered by physicians, clinics, community
3175 hospitals, and alternative delivery sites, as well as at least
3176 one regional referral hospital per service area. The plan shall
3177 provide that agreements negotiated between the governing board,
3178 agency, or authority and providers shall recognize hospitals
3179 that render a disproportionate share of indigent care, provide
3180 other incentives to promote the delivery of charity care to draw
3181 down federal funds where appropriate, and require cost
3182 containment, including, but not limited to, case management.
3183 From the funds specified in subparagraphs (d)1. and 2. for
3184 indigent health care services, service providers shall receive
3185 reimbursement at a Medicaid rate to be determined by the
3186 governing board, agency, or authority created pursuant to this
3187 paragraph for the initial emergency room visit, and a per-member
3188 per-month fee or capitation for those members enrolled in their



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3189 service area, as compensation for the services rendered
3190 following the initial emergency visit. Except for provisions of
3191 emergency services, upon determination of eligibility,
3192 enrollment shall be deemed to have occurred at the time services
3193 were rendered. The provisions for specific reimbursement of
3194 emergency services shall be repealed on July 1, 2001, unless
3195 otherwise reenacted by the Legislature. The capitation amount or
3196 rate shall be determined before ~~prior to~~ program implementation
3197 by an independent actuarial consultant. In no event shall such
3198 reimbursement rates exceed the Medicaid rate. The plan must also
3199 provide that any hospitals owned and operated by government
3200 entities on or after the effective date of this act must, as a
3201 condition of receiving funds under this subsection, afford
3202 public access equal to that provided under s. 286.011 as to any
3203 meeting of the governing board, agency, or authority the subject
3204 of which is budgeting resources for the retention of charity
3205 care, as that term is defined in the rules of the Agency for
3206 Health Care Administration. The plan shall also include
3207 innovative health care programs that provide cost-effective
3208 alternatives to traditional methods of service and delivery
3209 funding.

3210 3. The plan's benefits shall be made available to all
3211 county residents currently eligible to receive health care
3212 services as indigents or medically poor as defined in paragraph
3213 (4) (d).

3214 4. Eligible residents who participate in the health care
3215 plan shall receive coverage for a period of 12 months or the
3216 period extending from the time of enrollment to the end of the
3217 current fiscal year, per enrollment period, whichever is less.



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3218 5. At the end of each fiscal year, the governing board,
3219 agency, or authority shall prepare an audit that reviews the
3220 budget of the plan, delivery of services, and quality of
3221 services, and makes recommendations to increase the plan's
3222 efficiency. The audit shall take into account participant
3223 hospital satisfaction with the plan and assess the amount of
3224 poststabilization patient transfers requested, and accepted or
3225 denied, by the county public general hospital.

3226 Section 38. Paragraph (c) of subsection (2) of section
3227 394.4599, Florida Statutes, is amended to read:

3228 394.4599 Notice.—

3229 (2) INVOLUNTARY ADMISSION.—

3230 (c)1. A receiving facility shall give notice of the
3231 whereabouts of a minor who is being involuntarily held for
3232 examination pursuant to s. 394.463 to the minor's parent,
3233 guardian, caregiver, or guardian advocate, in person or by
3234 telephone or other form of electronic communication, immediately
3235 after the minor's arrival at the facility. The facility may
3236 delay notification for no more than 24 hours after the minor's
3237 arrival if the facility has submitted a report to the central
3238 abuse hotline, pursuant to s. 39.201, based upon knowledge or
3239 suspicion of abuse, abandonment, or neglect and if the facility
3240 deems a delay in notification to be in the minor's best
3241 interest.

3242 2. The receiving facility shall attempt to notify the
3243 minor's parent, guardian, caregiver, or guardian advocate until
3244 the receiving facility receives confirmation from the parent,
3245 guardian, caregiver, or guardian advocate, verbally, by
3246 telephone or other form of electronic communication, or by



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3247 recorded message, that notification has been received. Attempts
3248 to notify the parent, guardian, caregiver, or guardian advocate
3249 must be repeated at least once every hour during the first 12
3250 hours after the minor's arrival and once every 24 hours
3251 thereafter and must continue until such confirmation is
3252 received, unless the minor is released at the end of the 72-hour
3253 examination period, or until a petition for involuntary services
3254 ~~placement~~ is filed with the court pursuant to s. 394.463(2)(g)
3255 ~~s. 394.463(2)(i)~~. The receiving facility may seek assistance
3256 from a law enforcement agency to notify the minor's parent,
3257 guardian, caregiver, or guardian advocate if the facility has
3258 not received within the first 24 hours after the minor's arrival
3259 a confirmation by the parent, guardian, caregiver, or guardian
3260 advocate that notification has been received. The receiving
3261 facility must document notification attempts in the minor's
3262 clinical record.

3263 Section 39. Subsection (3) of section 394.495, Florida
3264 Statutes, is amended to read:

3265 394.495 Child and adolescent mental health system of care;
3266 programs and services.—

3267 (3) Assessments must be performed by:

3268 (a) A professional as defined in s. 394.455(6), (8), (34),
3269 (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~;

3270 (b) A professional licensed under chapter 491; or

3271 (c) A person who is under the direct supervision of a
3272 professional as defined in s. 394.455(6), (8), (34), (37), or
3273 (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
3274 licensed under chapter 491.

3275 Section 40. Subsection (5) of section 394.496, Florida



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3276 Statutes, is amended to read:

3277 394.496 Service planning.—

3278 (5) A professional as defined in s. 394.455(6), (8), (34),
3279 (37), or (38) s. 394.455(2), (4), (21), (23), or (24) or a
3280 professional licensed under chapter 491 must be included among
3281 those persons developing the services plan.

3282 Section 41. Subsection (6) of section 394.9085, Florida
3283 Statutes, is amended to read:

3284 394.9085 Behavioral provider liability.—

3285 (6) For purposes of this section, the terms "detoxification
3286 services," "addictions receiving facility," and "receiving
3287 facility" have the same meanings as those provided in ss.
3288 397.311(23)(a)4., 397.311(23)(a)1., and 394.455(41) ss.
3289 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(26),
3290 respectively.

3291 Section 42. Subsection (8) of section 397.405, Florida
3292 Statutes, is amended to read:

3293 397.405 Exemptions from licensure.—The following are exempt
3294 from the licensing provisions of this chapter:

3295 (8) A legally cognizable church or nonprofit religious
3296 organization or denomination providing substance abuse services,
3297 including prevention services, which are solely religious,
3298 spiritual, or ecclesiastical in nature. A church or nonprofit
3299 religious organization or denomination providing any of the
3300 licensed service components itemized under s. 397.311(23) s.
3301 397.311(22) is not exempt from substance abuse licensure but
3302 retains its exemption with respect to all services which are
3303 solely religious, spiritual, or ecclesiastical in nature.

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3305 The exemptions from licensure in this section do not apply to
3306 any service provider that receives an appropriation, grant, or
3307 contract from the state to operate as a service provider as
3308 defined in this chapter or to any substance abuse program
3309 regulated pursuant to s. 397.406. Furthermore, this chapter may
3310 not be construed to limit the practice of a physician or
3311 physician assistant licensed under chapter 458 or chapter 459, a
3312 psychologist licensed under chapter 490, a psychotherapist
3313 licensed under chapter 491, or an advanced registered nurse
3314 practitioner licensed under part I of chapter 464, who provides
3315 substance abuse treatment, so long as the physician, physician
3316 assistant, psychologist, psychotherapist, or advanced registered
3317 nurse practitioner does not represent to the public that he or
3318 she is a licensed service provider and does not provide services
3319 to individuals pursuant to part V of this chapter. Failure to
3320 comply with any requirement necessary to maintain an exempt
3321 status under this section is a misdemeanor of the first degree,
3322 punishable as provided in s. 775.082 or s. 775.083.

3323 Section 43. Subsections (1) and (5) of section 397.407,
3324 Florida Statutes, are amended to read:

3325 397.407 Licensure process; fees.—

3326 (1) The department shall establish the licensure process to
3327 include fees and categories of licenses and must prescribe a fee
3328 range that is based, at least in part, on the number and
3329 complexity of programs listed in s. 397.311(23) ~~s. 397.311(22)~~
3330 which are operated by a licensee. The fees from the licensure of
3331 service components are sufficient to cover at least 50 percent
3332 of the costs of regulating the service components. The
3333 department shall specify a fee range for public and privately



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3334 funded licensed service providers. Fees for privately funded
3335 licensed service providers must exceed the fees for publicly
3336 funded licensed service providers.

3337 (5) The department may issue probationary, regular, and
3338 interim licenses. The department shall issue one license for
3339 each service component that is operated by a service provider
3340 and defined pursuant to s. 397.311(23) ~~s. 397.311(22)~~. The
3341 license is valid only for the specific service components listed
3342 for each specific location identified on the license. The
3343 licensed service provider shall apply for a new license at least
3344 60 days before the addition of any service components or 30 days
3345 before the relocation of any of its service sites. Provision of
3346 service components or delivery of services at a location not
3347 identified on the license may be considered an unlicensed
3348 operation that authorizes the department to seek an injunction
3349 against operation as provided in s. 397.401, in addition to
3350 other sanctions authorized by s. 397.415. Probationary and
3351 regular licenses may be issued only after all required
3352 information has been submitted. A license may not be
3353 transferred. As used in this subsection, the term "transfer"
3354 includes, but is not limited to, the transfer of a majority of
3355 the ownership interest in the licensed entity or transfer of
3356 responsibilities under the license to another entity by
3357 contractual arrangement.

3358 Section 44. Section 397.416, Florida Statutes, is amended
3359 to read:

3360 397.416 Substance abuse treatment services; qualified
3361 professional.—Notwithstanding any other provision of law, a
3362 person who was certified through a certification process



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3363 recognized by the former Department of Health and Rehabilitative
3364 Services before January 1, 1995, may perform the duties of a
3365 qualified professional with respect to substance abuse treatment
3366 services as defined in this chapter, and need not meet the
3367 certification requirements contained in s. 397.311(31) ~~s.~~
3368 ~~397.311(30)~~.

3369 Section 45. Paragraph (b) of subsection (1) of section
3370 409.972, Florida Statutes, is amended to read:

3371 409.972 Mandatory and voluntary enrollment.—

3372 (1) The following Medicaid-eligible persons are exempt from
3373 mandatory managed care enrollment required by s. 409.965, and
3374 may voluntarily choose to participate in the managed medical
3375 assistance program:

3376 (b) Medicaid recipients residing in residential commitment
3377 facilities operated through the Department of Juvenile Justice
3378 or a mental health treatment facility ~~facilities~~ as defined in
3379 s. 394.455(50) ~~by s. 394.455(32)~~.

3380 Section 46. Paragraphs (d) and (g) of subsection (1) of
3381 section 440.102, Florida Statutes, are amended to read:

3382 440.102 Drug-free workplace program requirements.—The
3383 following provisions apply to a drug-free workplace program
3384 implemented pursuant to law or to rules adopted by the Agency
3385 for Health Care Administration:

3386 (1) DEFINITIONS.—Except where the context otherwise
3387 requires, as used in this act:

3388 (d) "Drug rehabilitation program" means a service provider,
3389 established pursuant to s. 397.311(40) ~~s. 397.311(39)~~, that
3390 provides confidential, timely, and expert identification,
3391 assessment, and resolution of employee drug abuse.



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3392 (g) "Employee assistance program" means an established
3393 program capable of providing expert assessment of employee
3394 personal concerns; confidential and timely identification
3395 services with regard to employee drug abuse; referrals of
3396 employees for appropriate diagnosis, treatment, and assistance;
3397 and followup services for employees who participate in the
3398 program or require monitoring after returning to work. If, in
3399 addition to the above activities, an employee assistance program
3400 provides diagnostic and treatment services, these services shall
3401 in all cases be provided by service providers pursuant to s.
3402 397.311(40) ~~s. 397.311(39)~~.

3403 Section 47. Subsection (7) of section 744.704, Florida
3404 Statutes, is amended to read:

3405 744.704 Powers and duties.—

3406 (7) A public guardian may ~~shall~~ not commit a ward to a
3407 ~~mental health~~ treatment facility, as defined in s. 394.455(50)
3408 ~~s. 394.455(32)~~, without an involuntary placement proceeding as
3409 provided by law.

3410 Section 48. Paragraph (a) of subsection (2) of section
3411 790.065, Florida Statutes, is amended to read:

3412 790.065 Sale and delivery of firearms.—

3413 (2) Upon receipt of a request for a criminal history record
3414 check, the Department of Law Enforcement shall, during the
3415 licensee's call or by return call, forthwith:

3416 (a) Review any records available to determine if the
3417 potential buyer or transferee:

3418 1. Has been convicted of a felony and is prohibited from
3419 receipt or possession of a firearm pursuant to s. 790.23;

3420 2. Has been convicted of a misdemeanor crime of domestic



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3421 violence, and therefore is prohibited from purchasing a firearm;

3422 3. Has had adjudication of guilt withheld or imposition of
3423 sentence suspended on any felony or misdemeanor crime of
3424 domestic violence unless 3 years have elapsed since probation or
3425 any other conditions set by the court have been fulfilled or
3426 expunction has occurred; or

3427 4. Has been adjudicated mentally defective or has been
3428 committed to a mental institution by a court or as provided in
3429 sub-sub-subparagraph b.(II), and as a result is prohibited by
3430 state or federal law from purchasing a firearm.

3431 a. As used in this subparagraph, "adjudicated mentally
3432 defective" means a determination by a court that a person, as a
3433 result of marked subnormal intelligence, or mental illness,
3434 incompetency, condition, or disease, is a danger to himself or
3435 herself or to others or lacks the mental capacity to contract or
3436 manage his or her own affairs. The phrase includes a judicial
3437 finding of incapacity under s. 744.331(6)(a), an acquittal by
3438 reason of insanity of a person charged with a criminal offense,
3439 and a judicial finding that a criminal defendant is not
3440 competent to stand trial.

3441 b. As used in this subparagraph, "committed to a mental
3442 institution" means:

3443 (I) Involuntary commitment, commitment for mental
3444 defectiveness or mental illness, and commitment for substance
3445 abuse. The phrase includes involuntary inpatient placement as
3446 defined in s. 394.467, involuntary outpatient services ~~placement~~
3447 as defined in s. 394.4655, involuntary assessment and
3448 stabilization under s. 397.6818, and involuntary substance abuse
3449 treatment under s. 397.6957, but does not include a person in a



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3450 mental institution for observation or discharged from a mental
3451 institution based upon the initial review by the physician or a
3452 voluntary admission to a mental institution; or

3453 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3454 admission to a mental institution for outpatient or inpatient
3455 treatment of a person who had an involuntary examination under
3456 s. 394.463, where each of the following conditions have been
3457 met:

3458 (A) An examining physician found that the person is an
3459 imminent danger to himself or herself or others.

3460 (B) The examining physician certified that if the person
3461 did not agree to voluntary treatment, a petition for involuntary
3462 outpatient or inpatient services ~~treatment~~ would have been filed
3463 under s. 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining
3464 physician certified that a petition was filed and the person
3465 subsequently agreed to voluntary treatment before ~~prior to~~ a
3466 court hearing on the petition.

3467 (C) Before agreeing to voluntary treatment, the person
3468 received written notice of that finding and certification, and
3469 written notice that as a result of such finding, he or she may
3470 be prohibited from purchasing a firearm, and may not be eligible
3471 to apply for or retain a concealed weapon or firearms license
3472 under s. 790.06 and the person acknowledged such notice in
3473 writing, in substantially the following form:

3474
3475 "I understand that the doctor who examined me believes
3476 I am a danger to myself or to others. I understand
3477 that if I do not agree to voluntary treatment, a
3478 petition will be filed in court to require me to



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3479 receive involuntary treatment. I understand that if
3480 that petition is filed, I have the right to contest
3481 it. In the event a petition has been filed, I
3482 understand that I can subsequently agree to voluntary
3483 treatment prior to a court hearing. I understand that
3484 by agreeing to voluntary treatment in either of these
3485 situations, I may be prohibited from buying firearms
3486 and from applying for or retaining a concealed weapons
3487 or firearms license until I apply for and receive
3488 relief from that restriction under Florida law.”
3489

3490 (D) A judge or a magistrate has, pursuant to sub-sub-
3491 subparagraph c.(II), reviewed the record of the finding,
3492 certification, notice, and written acknowledgment classifying
3493 the person as an imminent danger to himself or herself or
3494 others, and ordered that such record be submitted to the
3495 department.

3496 c. In order to check for these conditions, the department
3497 shall compile and maintain an automated database of persons who
3498 are prohibited from purchasing a firearm based on court records
3499 of adjudications of mental defectiveness or commitments to
3500 mental institutions.

3501 (I) Except as provided in sub-sub-subparagraph (II), clerks
3502 of court shall submit these records to the department within 1
3503 month after the rendition of the adjudication or commitment.
3504 Reports shall be submitted in an automated format. The reports
3505 must, at a minimum, include the name, along with any known alias
3506 or former name, the sex, and the date of birth of the subject.

3507 (II) For persons committed to a mental institution pursuant



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3508 to sub-sub-subparagraph b.(II), within 24 hours after the
3509 person's agreement to voluntary admission, a record of the
3510 finding, certification, notice, and written acknowledgment must
3511 be filed by the administrator of the receiving or treatment
3512 facility, as defined in s. 394.455, with the clerk of the court
3513 for the county in which the involuntary examination under s.
3514 394.463 occurred. No fee shall be charged for the filing under
3515 this sub-sub-subparagraph. The clerk must present the records to
3516 a judge or magistrate within 24 hours after receipt of the
3517 records. A judge or magistrate is required and has the lawful
3518 authority to review the records ex parte and, if the judge or
3519 magistrate determines that the record supports the classifying
3520 of the person as an imminent danger to himself or herself or
3521 others, to order that the record be submitted to the department.
3522 If a judge or magistrate orders the submittal of the record to
3523 the department, the record must be submitted to the department
3524 within 24 hours.

3525 d. A person who has been adjudicated mentally defective or
3526 committed to a mental institution, as those terms are defined in
3527 this paragraph, may petition the circuit court that made the
3528 adjudication or commitment, or the court that ordered that the
3529 record be submitted to the department pursuant to sub-sub-
3530 subparagraph c.(II), for relief from the firearm disabilities
3531 imposed by such adjudication or commitment. A copy of the
3532 petition shall be served on the state attorney for the county in
3533 which the person was adjudicated or committed. The state
3534 attorney may object to and present evidence relevant to the
3535 relief sought by the petition. The hearing on the petition may
3536 be open or closed as the petitioner may choose. The petitioner



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3537 may present evidence and subpoena witnesses to appear at the
3538 hearing on the petition. The petitioner may confront and cross-
3539 examine witnesses called by the state attorney. A record of the
3540 hearing shall be made by a certified court reporter or by court-
3541 approved electronic means. The court shall make written findings
3542 of fact and conclusions of law on the issues before it and issue
3543 a final order. The court shall grant the relief requested in the
3544 petition if the court finds, based on the evidence presented
3545 with respect to the petitioner's reputation, the petitioner's
3546 mental health record and, if applicable, criminal history
3547 record, the circumstances surrounding the firearm disability,
3548 and any other evidence in the record, that the petitioner will
3549 not be likely to act in a manner that is dangerous to public
3550 safety and that granting the relief would not be contrary to the
3551 public interest. If the final order denies relief, the
3552 petitioner may not petition again for relief from firearm
3553 disabilities until 1 year after the date of the final order. The
3554 petitioner may seek judicial review of a final order denying
3555 relief in the district court of appeal having jurisdiction over
3556 the court that issued the order. The review shall be conducted
3557 de novo. Relief from a firearm disability granted under this
3558 sub-subparagraph has no effect on the loss of civil rights,
3559 including firearm rights, for any reason other than the
3560 particular adjudication of mental defectiveness or commitment to
3561 a mental institution from which relief is granted.

3562 e. Upon receipt of proper notice of relief from firearm
3563 disabilities granted under sub-subparagraph d., the department
3564 shall delete any mental health record of the person granted
3565 relief from the automated database of persons who are prohibited



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3566 from purchasing a firearm based on court records of
3567 adjudications of mental defectiveness or commitments to mental
3568 institutions.

3569 f. The department is authorized to disclose data collected
3570 pursuant to this subparagraph to agencies of the Federal
3571 Government and other states for use exclusively in determining
3572 the lawfulness of a firearm sale or transfer. The department is
3573 also authorized to disclose this data to the Department of
3574 Agriculture and Consumer Services for purposes of determining
3575 eligibility for issuance of a concealed weapons or concealed
3576 firearms license and for determining whether a basis exists for
3577 revoking or suspending a previously issued license pursuant to
3578 s. 790.06(10). When a potential buyer or transferee appeals a
3579 nonapproval based on these records, the clerks of court and
3580 mental institutions shall, upon request by the department,
3581 provide information to help determine whether the potential
3582 buyer or transferee is the same person as the subject of the
3583 record. Photographs and any other data that could confirm or
3584 negate identity must be made available to the department for
3585 such purposes, notwithstanding any other provision of state law
3586 to the contrary. Any such information that is made confidential
3587 or exempt from disclosure by law shall retain such confidential
3588 or exempt status when transferred to the department.

3589 Section 49. This act shall take effect July 1, 2016.