

27 client, such treatment may be provided under the following
28 circumstances:

29 1. In an emergency situation in which there is immediate
30 danger to the safety of the client or others, such treatment may
31 be provided upon the written order of a physician for up to a
32 ~~period not to exceed~~ 48 hours, excluding weekends and legal
33 holidays. If, after the 48-hour period, the client has not given
34 express and informed consent to the treatment initially refused,
35 the administrator or designee of the civil or forensic facility
36 shall, within 48 hours, excluding weekends and legal holidays,
37 petition the committing court or the circuit court serving the
38 county in which the facility is located, at the option of the
39 facility administrator or designee, for an order authorizing the
40 continued treatment of the client. In the interim, the need for
41 treatment shall be reviewed every 48 hours and may be continued
42 without the consent of the client upon the continued written
43 order of a physician who has determined that the emergency
44 situation continues to present a danger to the safety of the
45 client or others.

46 2. In a situation other than an emergency situation, the
47 administrator or designee of the facility shall petition the
48 court for an order authorizing necessary and essential treatment
49 for the client.

50 a. If the client has been receiving psychotropic
51 medication at the jail at the time of transfer to the forensic
52 or civil facility and lacks the capacity to make an informed

53 decision regarding mental health treatment at the time of
54 admission, the admitting physician shall order continued
55 administration of psychotropic medication if, in the clinical
56 judgment of the physician, abrupt cessation of that psychotropic
57 medication could pose a risk to the health or safety of the
58 client while a court order to medicate is pursued. The
59 administrator or designee of the forensic or civil facility
60 shall, within 5 days after a client's admission, excluding
61 weekends and legal holidays, petition the committing court or
62 the circuit court serving the county in which the facility is
63 located, at the option of the facility administrator or
64 designee, for an order authorizing the continued treatment of a
65 client with psychotropic medication. The jail physician shall
66 provide a current psychotropic medication order at the time of
67 transfer to the forensic or civil facility or upon request of
68 the admitting physician after the client is evaluated.

69 b. The court order shall allow such treatment for up to a
70 period not to exceed 90 days after following the date that of
71 the entry of the order was entered. Unless the court is notified
72 in writing that the client has provided express and informed
73 written consent in writing or that the client has been
74 discharged by the committing court, the administrator or
75 designee of the facility shall, before the expiration of the
76 initial 90-day order, petition the court for an order
77 authorizing the continuation of treatment for an additional 90
78 days another 90-day period. This procedure shall be repeated

79 | until the client provides consent or is discharged by the
80 | committing court.

81 | 3. At the hearing on the issue of whether the court should
82 | enter an order authorizing treatment for which a client was
83 | unable to or refused to give express and informed consent, the
84 | court shall determine by clear and convincing evidence that the
85 | client has mental illness, intellectual disability, or autism,
86 | that the treatment not consented to is essential to the care of
87 | the client, and that the treatment not consented to is not
88 | experimental and does not present an unreasonable risk of
89 | serious, hazardous, or irreversible side effects. In arriving at
90 | the substitute judgment decision, the court must consider at
91 | least the following factors:

- 92 | a. The client's expressed preference regarding treatment;
93 | b. The probability of adverse side effects;
94 | c. The prognosis without treatment; and
95 | d. The prognosis with treatment.

96 |
97 | The hearing shall be as convenient to the client as may be
98 | consistent with orderly procedure and shall be conducted in
99 | physical settings not likely to be injurious to the client's
100 | condition. The court may appoint a general or special magistrate
101 | to preside at the hearing. The client or the client's guardian,
102 | and the representative, shall be provided with a copy of the
103 | petition and the date, time, and location of the hearing. The
104 | client has the right to have an attorney represent him or her at

105 the hearing, and, if the client is indigent, the court shall
 106 appoint the office of the public defender to represent the
 107 client at the hearing. The client may testify or not, as he or
 108 she chooses, and has the right to cross-examine witnesses and
 109 may present his or her own witnesses.

110 Section 2. Subsection (2) of section 916.13, Florida
 111 Statutes, is amended to read:

112 916.13 Involuntary commitment of defendant adjudicated
 113 incompetent.—

114 (2) A defendant who has been charged with a felony and who
 115 has been adjudicated incompetent to proceed due to mental
 116 illness, and who meets the criteria for involuntary commitment
 117 ~~to the department under the provisions of this chapter,~~ may be
 118 committed to the department, and the department shall retain and
 119 treat the defendant.

120 (a) Within ~~No later than~~ 6 months after the date of
 121 admission and at the end of any period of extended commitment,
 122 or at any time the administrator or designee determines ~~shall~~
 123 ~~have determined~~ that the defendant has regained competency to
 124 proceed or no longer meets the criteria for continued
 125 commitment, the administrator or designee shall file a report
 126 with the court pursuant to the applicable Florida Rules of
 127 Criminal Procedure.

128 (b) A competency hearing shall be held within 30 days
 129 after the court receives notification that the defendant is
 130 competent to proceed or no longer meets the criteria for

131 continued commitment. The defendant must be transported to the
132 committing court's jurisdiction for the hearing.

133 Section 3. Section 916.145, Florida Statutes, is amended
134 to read:

135 (Substantial rewording of section. See
136 s. 916.145, F.S., for present text.)
137 916.145 Dismissal of charges.—

138 (1) The charges against a defendant adjudicated
139 incompetent to proceed due to mental illness shall be dismissed
140 without prejudice to the state if the defendant remains
141 incompetent to proceed for 5 continuous, uninterrupted years
142 after such determination, unless the court in its order
143 specifies its reasons for believing that the defendant will
144 become competent to proceed within the foreseeable future and
145 specifies the time within which the defendant is expected to
146 become competent to proceed. The court may dismiss such charges
147 at least 3 years after such determination, unless the charge is:

148 (a) Arson;

149 (b) Sexual battery;

150 (c) Robbery;

151 (d) Kidnapping;

152 (e) Aggravated child abuse;

153 (f) Aggravated abuse of an elderly person or disabled
154 adult;

155 (g) Aggravated assault with a deadly weapon;

156 (h) Murder;

- 157 (i) Manslaughter;
- 158 (j) Aggravated manslaughter of an elderly person or
- 159 disabled adult;
- 160 (k) Aggravated manslaughter of a child;
- 161 (l) Unlawful throwing, projecting, placing, or discharging
- 162 of a destructive device or bomb;
- 163 (m) Armed burglary;
- 164 (n) Aggravated battery;
- 165 (o) Aggravated stalking;
- 166 (p) A forcible felony as defined in s. 776.08 and not
- 167 listed elsewhere in this subsection;
- 168 (q) An offense where an element of the offense requires
- 169 the possession, use, or discharge of a firearm;
- 170 (r) An attempt to commit an offense listed in this
- 171 subsection;
- 172 (s) An offense allegedly committed by a defendant who has
- 173 had a forcible or violent felony conviction within the 5 years
- 174 immediately preceding the date of arrest for the nonviolent
- 175 felony sought to be dismissed;
- 176 (t) An offense allegedly committed by a defendant who,
- 177 after having been found incompetent and placed under court
- 178 supervision in a community-based program, is formally charged by
- 179 a state attorney or the Office of the Statewide Prosecutor with
- 180 a new felony offense; or
- 181 (u) An offense for which there is an identifiable victim
- 182 and such victim has not consented to the dismissal.

183 (2) This section does not prohibit the state from refiling
184 dismissed charges if the defendant is declared to be competent
185 to proceed in the future.

186 Section 4. Subsection (5) is added to section 916.15,
187 Florida Statutes, to read:

188 916.15 Involuntary commitment of defendant adjudicated not
189 guilty by reason of insanity.—

190 (5) The commitment hearing shall be held within 30 days
191 after the court receives notification that the defendant no
192 longer meets the criteria for continued commitment. The
193 defendant must be transported to the committing court's
194 jurisdiction for the hearing.

195 Section 5. This act shall take effect July 1, 2016.